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INDENTURE OF TRUST

by and between

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

and

THE BANK OF NEW YORK TRUST COMPANY, N.A.

as Trustee

Dated as of May 1, 2008

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT  
VARIABLE RATE DEMAND INDUSTRIAL BUILDING  
REVENUE BONDS, SERIES 2008  
(SPALDING UNIVERSITY, INC. PROJECT)

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## INDENTURE OF TRUST

THIS INDENTURE OF TRUST, made and entered into as of May 1, 2008, between the LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, a consolidated local government and political subdivision of the Commonwealth of Kentucky (herein called the "Issuer"), and \_\_\_\_\_, a national banking association organized and existing under the laws of the United States, having a corporate trust office in Louisville, Kentucky, and being qualified to accept and administer the trusts hereby created, as trustee (herein called the "Trustee"),

### WITNESSETH:

WHEREAS, by virtue of the authority of the laws of the Commonwealth of Kentucky, and particularly Chapter 103 of the Kentucky Revised Statutes and pursuant to the Bond Ordinance referred to below, the Issuer is authorized to enter into this Indenture and to do or cause to be done all the acts and things herein provided or required to be done, to issue the Series 2008 Bonds, and to use the proceeds of the Series 2008 Bonds to make loans that will provide moneys to assist in the financing of the Project, as hereinafter defined, which Project has and will promote the welfare of the people of the Commonwealth of Kentucky, promote reconversion to a peacetime economy, relieve conditions of unemployment, aid in the rehabilitation of returning veterans, encourage the increase of industry in the Commonwealth of Kentucky, promote the economic welfare of the people of the Issuer, create or preserve jobs and employment opportunities and assist in the development of industrial activities to the benefit of the people of the Issuer; and

WHEREAS, in accordance with the provisions of the Act, the Issuer has induced the Borrower (as hereinafter defined), to proceed with the Project (as hereinafter defined) in the jurisdiction of the Issuer by offering to issue the Bonds (as hereinafter defined) under this Indenture and to loan the proceeds thereof to the Borrower pursuant to a Loan Agreement dated even herewith (as hereinafter defined) for the purpose of paying certain costs of the Project; and

WHEREAS, the Issuer proposes to finance certain costs of the Project as an authorized project under the Act by the issuance of the Bonds (as hereinafter defined), and by lending the proceeds therefrom to the Borrower; and

WHEREAS, the execution and delivery of this Indenture and the issuance of the Bonds under the Act as herein provided have been in all respects duly and validly authorized by an ordinance adopted by the Issuer on May \_\_, 2008; and

WHEREAS, all things necessary to make the Bonds when authenticated by the Trustee as in this Indenture provided, the valid, binding and legal special limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid pledge and assignment of the Trust Estate (as hereinafter defined) have been done and performed; and

WHEREAS, the Trustee has agreed to accept the trusts herein created upon the terms herein set forth; and

WHEREAS, upon the execution and delivery of this Indenture all things necessary to make the Bonds, when issued as provided in this Indenture, the valid, binding and

legal limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment of the amounts pledged to the payment of the principal of, premium, if any, and interest on the Bonds will have been done and performed, and the creation, execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, in all respects will have been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of principal of, premium, if any, and interest on, and the purchase price of, the Bonds according to their true intent and meaning, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained therein and herein, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and (a) absolutely and irrevocably assigns hereby to the Trustee and to its successors in trust, and its and their assigns, any right, title and interest of the Issuer in, to and under the Loan Agreement and the Note (except for the Unassigned Rights), the Construction Fund and the Expense Account thereof, the Credit Facility Account, Revenue Account and Seasoned Funds Account of the Bond Fund, and all moneys and investments therein (including without limitation the proceeds of the Credit Facility), but not the Rebate Fund, the Purchase Fund, the Remarketing Account or the Custody Account, and (b) grants a security interest to the Trustee and to its successors in trust, and its and their assigns in the Revenues (collectively, the "Trust Estate").

TO HAVE AND TO HOLD unto the Trustee and its successors in that trust and its and their assigns forever;

BUT IN TRUST, NEVERTHELESS, and subject to the provisions hereof,

(a) except as provided otherwise herein, for the equal and proportionate benefit, security and protection of all present and future Holders of the Bonds issued or to be issued under and secured by this Indenture,

(b) for the enforcement of the payment of the principal of and interest on the Bonds, when payable, according to the true intent and meaning thereof and of this Indenture, and

(c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture, in each case, without preference, priority or distinction, as to lien or otherwise, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and ratably hereby, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that

(i) if the principal of the Bonds and the interest due or to become due thereon together with any premium required by redemption of any of the Bonds prior to maturity shall be well and truly paid, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the outstanding Bonds shall have been paid and discharged in accordance with Article VI hereof, and

(ii) if all of the covenants, agreements, obligations, terms and conditions of the Issuer under this Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee, the Bond Registrar, the paying agents and the authenticating agents all sums of money due or to become due to them in accordance with the terms and provisions hereof,

this Indenture and the rights assigned and security interest granted hereby shall cease, determine and be void, except as provided herein with respect to the survival of certain provisions hereof; otherwise, this Indenture shall be and remain in full force and effect.

It is declared that all Bonds issued hereunder and secured hereby are to be issued, authenticated and delivered, and that the Trust Estate assigned or pledged hereby are to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture. The Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows:

## **ARTICLE I DEFINITIONS AND INTERPRETATION**

Section 1.01. Definitions. To the extent not defined herein, the terms used in this Indenture shall have the same meanings as set forth in the Loan Agreement. In addition to the words and terms defined in the Loan Agreement or elsewhere in this Indenture or its supplements, each of the following terms shall have the meaning assigned to it in this Section 1.01 whenever it is used in this Indenture, unless the context in which it is used clearly requires otherwise:

“Account” means any of the accounts established or authorized under this Indenture.

“Act” means Chapter 103 of the Kentucky Revised Statutes.

“Act of Bankruptcy” means the filing of a voluntary or involuntary petition under the United States Bankruptcy Code, 11 U.S.C. §101 et seq. (as it may be amended from time to time), or the commencement of a proceeding under any other applicable laws concerning insolvency, reorganization or bankruptcy, by or against the Borrower or the Issuer, unless such petition or proceeding shall have been dismissed and such dismissal shall be final and not subject to appeal.

“Adjustable Rate” means the interest rate per annum on a Bond established in accordance with Section 2.02(D) hereof.

“Adjustable Rate Conversion Date” means the Daily Rate Interest Payment Date or the Weekly Rate Interest Payment Date on which a Bond begins to bear interest at an Adjustable Rate in accordance with the terms hereof.

“Adjustable Rate Interest Payment Date” means: (a) with respect to a Bond in an Adjustable Rate Period of 365 days or less, the day following the last day of such Adjustable Rate Period or the maturity date of such Bond (to the extent the conditions specified in Section 2.02(D) hereof are met); (b) with respect to a Bond in an Adjustable Rate Period of more than 365 days, each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, commencing with the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 next succeeding the Adjustable Rate Conversion Date, the Adjustable Rate Reset Date or the maturity date of such Bond (to the extent the conditions specified in Section 2.02(D) hereof are met); (c) with respect to a Bond in an Adjustable Rate Period, regardless of the duration of such Adjustable Rate Period, each date on which such Bond is subject to mandatory tender for purchase; and (d) with respect to a Pledged Bond or a Borrower Bond in an Adjustable Rate Period, regardless of the duration of such Adjustable Rate Period, the date on which such Pledged Bond or Borrower Bond, as appropriate, is remarketed pursuant to this Indenture.

“Adjustable Rate Mode” means the Mode in which a Bond bears interest at an Adjustable Rate.

“Adjustable Rate Period” means the period from (a) an Adjustable Rate Conversion Date or an Adjustable Rate Reset Date, as appropriate, to (b) a subsequent Conversion Date or Adjustable Rate Reset Date, as appropriate, which Conversion Date or Adjustable Rate Reset Date may not be less than thirty days from commencement of such Period and, if such date is more than 365 days from commencement of such Period, shall be any \_\_\_\_\_ 1 or \_\_\_\_\_ 1 or the maturity date of such Bond as shall be specified by the Remarketing Agent on the Adjustable Rate Conversion Date or Adjustable Rate Reset Date in accordance with Section 2.02(D) hereof.

“Adjustable Rate Reset Date” means an Adjustable Rate Interest Payment Date subsequent to an Adjustable Rate Conversion Date on which a Bond begins to bear interest at a new Adjustable Rate in accordance with the terms hereof.

“Affiliate” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“Alternate Credit Facility” means any letter of credit meeting the requirements of Section 4.3(b) of the Loan Agreement, or any bank bond purchase agreement, revolving credit agreement, surety bond, bond insurance policy or other agreement or instrument under which any person or entity (other than the Issuer or the Borrower) undertakes to make or provide funds to make payment of the principal or purchase price of, premium, if any (if the Credit Facility



being replaced secures premium payable upon an optional redemption of Bonds supported by such Credit Facility), and interest on Bonds supported by a Credit Facility, delivered to and received by the Trustee (a) replacing a then existing Credit Facility, (b) delivered, dated and effective as of a date prior to the expiration of the Credit Facility being replaced, (c) expiring on a date which is at least fifteen days after an Interest Payment Date with respect to such Bonds, (d) issued on any terms and conditions, except that the Alternate Credit Facility may expire on a date which is later (but not earlier) than the expiration date of the Credit Facility being replaced, but such Alternate Credit Facility must have a term of at least 364 days unless such Bonds mature within 364 days, in which case such Alternate Credit Facility shall have a term extending to a date at least 15 days after the maturity date of such Bonds, and except that the stated amount of the Alternate Credit Facility shall equal the sum of (i) the aggregate principal amount of Bonds at the time Outstanding supported by the Credit Facility (plus, if such Credit Facility secures premium payable upon an optional redemption of such Bonds, the maximum premium so secured), plus (ii) an amount equal to at least 35 days' interest computed at an assumed rate per annum established in such Credit Facility and no greater than the Maximum Rate per annum on all Bonds at the time Outstanding that are in the Daily Rate Mode, the Weekly Rate Mode or the Adjustable Rate Mode, and (e) accompanied by an opinion of Bond Counsel to the effect that the delivery thereof is authorized or permitted by the terms of this Indenture, the Loan Agreement and the Act, and will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes. Whenever reference is made in this Indenture to actions occurring or to be taken under the Credit Facility, such reference shall be deemed to include any Alternate Credit Facility, as appropriate. An Alternate Credit Facility may be issued to provide only credit support or liquidity support so long as a separate Alternate Credit Facility provides, at all times while such Alternate Credit Facility is in effect, complementary liquidity support or credit support, as the case may be. An Alternate Credit Facility may be issued to provide credit support, liquidity support or both to one, some or all of the Bonds; however, no more than one Alternate Credit Facility may provide credit or liquidity support at any time. At all times while any Bond (except any Borrower Bond or any Pledged Bond) is in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode, such Bond shall be entitled to both credit support and liquidity support. As used in this Indenture, and in the Loan Agreement, an Alternate Credit Facility does not include an extension of the then existing Credit Facility.

“Authorized Borrower Representative” means the person designated at the time pursuant to the Loan Agreement to act on behalf of the Borrower; initially, Authorized Borrower Representative means the President of Spalding University, Inc.

“Authorized Denomination” means: (a) for any Bond in the Daily Rate Mode, the Weekly Rate Mode, or the Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less, the denomination of \$100,000 or any integral multiple of \$5,000 in excess thereof; and (b) for any Bond in the Adjustable Rate Mode with an Adjustable Rate Period of more than 365 days, or the Fixed Rate Mode, the denomination of \$5,000 or any integral multiple thereof.

“Authorized Officer” means, with respect to the Issuer, any of the Mayor or Deputy Mayor of the Issuer and the Clerk or Deputy Clerk of the Metro Council.

“Beneficial Owner” or “beneficial owner” is defined in Section 2.11 of this Indenture.

“Bond Counsel” means a firm of attorneys of nationally recognized expertise with respect to the tax-exempt obligations of political subdivisions, selected by the Borrower and acceptable to the Issuer, the Remarketing Agent and the Credit Provider and not objected to by the Trustee.

“Bond Fund” means the Fund by that name authorized by Section 5.02 of this Indenture.

“Bond Ordinance” means the ordinance adopted by the Issuer on May \_\_, 2008, authorizing the issuance, delivery and sale of the Bonds.

“Bond Owner,” “Bondowner,” “Owner,” “owner,” “Bondholder,” “bondholder,” “holder” or “owner of the Bonds,” when used with respect to a Bond, means the person or entity in whose name such Bond shall be registered on the Registration Books.

“Bond Purchase Agreement” means the bond purchase agreement for the Bonds, among the Issuer, the Borrower and the Underwriter, including all amendments thereof and supplements thereto.

“Bond Registrar” means the Trustee.

“Bonds” means the \$13,500,000 aggregate principal amount of the Issuer’s Variable Rate Demand Industrial Building Revenue Bonds, Series 2008 (Spalding University, Inc. Project), executed and delivered pursuant hereto. (If the Bonds are held in a book-entry only system, any reference to the Bonds shall, if it is appropriate in the context in which the term is used, be a reference to the beneficial ownership interests in the Bonds.)

“Borrower” means the Spalding University, Inc., a Kentucky nonprofit corporation qualified to do business in the State, and successors thereto permitted under the Loan Agreement.

“Borrower Bonds” means Bonds purchased with moneys provided to the Tender Agent, or beneficial interests in Bonds purchased with moneys provided to the Remarketing Agent, pursuant to Section 3.03(c) hereof.

“Business Day” or “business day” means any day which is not (a) a Saturday, (b) a Sunday, (c) in the city in which the designated corporate trust office of the Trustee, the designated corporate trust office of the Tender Agent, the principal corporate office of the Remarketing Agent or the office of the Credit Provider at which drawings under the Credit Facility are to be honored is located, a day on which banking institutions are authorized or required by law or executive order to close, or (d) a day on which the New York Stock Exchange is closed.

“Closing Date” means the date the Bonds are delivered to the original purchasers thereof against payment therefor pursuant to the Bond Purchase Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, or any successor sections of a subsequent income tax statute or code, including the regulations, rulings and proclamations promulgated and proposed thereunder or under the predecessor code.

“Construction Fund” means the Fund by that name authorized by Section 5.05 of this Indenture.

“Conversion Date” means a Daily Rate Conversion Date, an Adjustable Rate Conversion Date, a Weekly Rate Conversion Date or a Fixed Rate Conversion Date, as appropriate.

“Costs of Issuance” means (a) payment of all reasonable costs incurred by the Borrower in connection with the issuance of the Bonds including, but not limited to, legal and accounting fees and expenses, printing expenses, financial consultants’ fees, financing charges (including underwriting fees and discounts), printing and engraving costs, the fees and expenses of the Rating Agencies, preparation of the financing statements, and preparation of any disclosure document and any other documents necessary for the issuance of the Bonds; (b) payment of the fees and expenses of the Trustee, the Issuer, any Bond Registrar and the Tender Agent and the reasonable expenses of their counsel properly incurred under or in connection with the Indenture and the transactions contemplated hereby; and (c) payment of those fees and expenses of the Credit Provider and the reasonable expenses of its counsel properly incurred under or in connection with the Indenture and the transactions contemplated hereby, to the extent such fees and expenses represent administrative charges and do not represent charges for the transfer of credit risk.

“Credit Facility” means the Initial Credit Facility or any Alternate Credit Facility then in effect. All references to “Credit Facility” shall be of no effect if (a) no Credit Facility is outstanding, and (b) no obligations of the Borrower to a Credit Provider remain outstanding under any Reimbursement Agreement.

“Credit Provider” means with respect to the Initial Credit Facility, JPMorgan Chase Bank, N.A., issuer of the Initial Credit Facility, and its successors in such capacity and its assigns; or, if an Alternate Credit Facility is issued, the issuer or issuers thereof, and their successors in such capacity and their assigns. All references to “Credit Provider” shall be of no effect if (a) no Credit Facility is outstanding, and (b) no obligations of the Borrower to a Credit Provider remain outstanding under any Reimbursement Agreement.

“Custody Account” means the Account of that name authorized pursuant to Section 3.06 of this Indenture.

“Daily Rate” means the interest rate per annum on a Bond established in accordance with Section 2.02(B) hereof.

“Daily Rate Conversion Date” means the Adjustable Rate Interest Payment Date or the Weekly Rate Interest Payment Date on which Bonds begin to bear interest at a Daily Rate in accordance with the terms hereof.

“Daily Rate Interest Payment Date” means the first Business Day of each month, commencing with the first Business Day of the month next succeeding a Daily Rate Conversion Date, and the maturity date of a Bond (to the extent such Bond is in the Daily Rate Mode at such time).

“Daily Rate Mode” means the Mode in which a Bond bears interest at a Daily Rate.

“Daily Rate Period” means the period from a Daily Rate Conversion Date to the earlier of the following Conversion Date or the maturity date of a Bond (to the extent such Bond is in the Daily Rate Mode at such time).

“Determination of Taxability” means and shall occur when, (i) the Trustee receives written notice from the Borrower, supported by an opinion of Bond Counsel, that interest on the Bonds is includable in the gross income of holders of the Bonds for federal income tax purposes or (ii) the Internal Revenue Service shall claim in writing that interest on the Bonds is includable in the gross income of holders of the Bonds for federal income tax purposes; provided, that such a claim shall not be deemed a Determination of Taxability unless the Borrower is afforded reasonable opportunity (at the Borrower’s sole expense and for a period not to exceed 2 years) to pursue any judicial or administrative remedy available to the Borrower with respect to such claim.

“Escrowed Municipals” means obligations of state or local governments secured by an irrevocable escrow of Federal Securities.

“Event of Default,” used with respect to this Indenture, means any event specified in Section 7.01 of this Indenture.

“Expense Account” means the Account by that name authorized in the Construction Fund by Section 5.07 of this Indenture.

“Expiration of the Term of the Credit Facility” means the expiration of a then existing Credit Facility in effect with respect to any Bonds, including extensions thereof, without provisions being made in accordance with Section 4.3 of the Loan Agreement for the delivery of an Alternate Credit Facility prior to any date upon which the Trustee is required hereunder to give notice of a mandatory tender of Bonds as a result of such expiration. No “Expiration of the Term of the Credit Facility,” with respect to a Bond, shall be deemed to occur to the extent of a remarketing of such Bond in the Fixed Rate Mode on the Fixed Rate Conversion Date without the security of a Credit Facility.

“Federal Securities” means (i) direct obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury), or (ii) obligations the principal and interest on which are unconditionally guaranteed by the United States of America.

“Fixed Rate” means the interest rate per annum on a Bond established in accordance with Section 2.02(E) hereof.

“Fixed Rate Conversion Date” means the Daily Rate Interest Payment Date, the Weekly Rate Interest Payment Date or the Adjustable Rate Interest Payment Date on which a Bond begins to bear interest at the Fixed Rate in accordance with the terms hereof.

“Fixed Rate Interest Payment Date” means each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, commencing with the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 next succeeding the Fixed Rate Conversion Date, and the maturity date of a Bond (to the extent such Bond is in the Fixed Rate Mode at such time).

“Fixed Rate Mode” means the Mode in which a Bond bears interest at the Fixed Rate.

“Fixed Rate Period” means the period from the Fixed Rate Conversion Date to the maturity date of a Bond.

“Fund” means any of the funds established under this Indenture.

“Indenture” means this Indenture of Trust, including all amendments hereof and supplements hereto.

“Initial Credit Facility” means the irrevocable transferable direct pay letter of credit issued by JPMorgan Chase Bank, N.A., and delivered by the Borrower to the Trustee on the Closing Date, including extensions thereto, against which the Trustee shall be entitled to draw, in accordance with the terms thereof, up to (a) an amount sufficient to pay, with respect to the Bonds then outstanding supported by such Credit Facility, (i) the aggregate principal amount of such Bonds, plus (if requested by the Borrower) an amount equal to the maximum optional redemption premium payable on such Bonds subsequent to the Conversion Date or Adjustable Rate Reset Date, as appropriate, or (ii) the purchase price or a portion of the purchase price equal to the aggregate principal amount of such Bonds delivered for purchase pursuant to Article III of this Indenture; plus (b) an amount equal to at least 35 days’ accrued interest on the Bonds then outstanding in the Daily Rate Mode, the Weekly Rate Mode or the Adjustable Rate Mode, calculated at an assumed rate per annum established in such Initial Credit Facility and no greater than the Maximum Rate.

“Interest Payment Date” means a Daily Rate Interest Payment Date, a Weekly Rate Interest Payment Date, an Adjustable Rate Interest Payment Date or a Fixed Rate Interest Payment Date, as appropriate.

“Interest Period” means (a) while a Bond is in the Daily Rate Mode, the period from and including each day which is a Business Day to but excluding the next succeeding day which is a Business Day, and (b) while a Bond is in the Weekly Rate Mode, the period from and including the Closing Date or a Weekly Rate Conversion Date, as appropriate, through and including the following Wednesday, and, after the first Interest Period, the period from and including Thursday of each week through and including the following Wednesday or the day preceding a Conversion Date (if earlier), whether or not such days are Business Days; provided, however, that if the scheduled rate change day for Bonds in the Weekly Rate Mode is changed to a day of the calendar week other than Wednesday pursuant to Section 2.02(C) hereof, the Interest Period for Bonds in the Weekly Rate Mode shall mean the period from the Weekly Rate Conversion Date through and including the day immediately preceding such new rate change day, and, after the first Interest Period, the period from such new rate change day through and including the day immediately preceding the following rate change day, whether or not such days are Business Days.

“Issuer” means the Louisville/Jefferson County Metro Government, a consolidated local government and political subdivision of the State.

“Loan” means the loan made by the Issuer to the Borrower from the proceeds of the Bonds pursuant to the Loan Agreement as evidenced by the Note.

“Loan Agreement” means the Loan Agreement dated as of May 1, 2008 between the Issuer and the Borrower, including all amendments thereof and supplements thereto.

“Maximum Rate” means the lesser of (a) 10.0% per annum or (b) the annual interest rate used in determining the interest portion of the Credit Facility, if any. Upon the issuance of the Bonds and the concurrent delivery of the Initial Credit Facility, the Maximum Rate will be 10.0% while such Initial Credit Facility secures the Bonds.

“Mode” means the Daily Rate Mode, the Weekly Rate Mode, the Adjustable Rate Mode or the Fixed Rate Mode, as appropriate. The period that any Bond is in any Mode shall not be less than 30 days.

“Note” means the Series 2008 Note of the Borrower in the principal amount of \$13,500,000 in substantially the form attached as Exhibit B to the Loan Agreement which will be issued and delivered by the Borrower to the Trustee to evidence the Loan, and any note issued in exchange therefor pursuant to Section 4.6 of the Loan Agreement.

“Outstanding,” “Bonds outstanding” or “Bonds then outstanding,” at the time in question, means all Bonds that have been executed and delivered by the Issuer and authenticated by the Trustee or Tender Agent under this Indenture, except:

- (a) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;
- (b) Bonds paid or deemed to be paid pursuant to Article VI hereof;
- (c) Bonds in lieu of or in exchange for which other Bonds shall have been executed and delivered by the Issuer and authenticated by the Trustee or the Tender Agent pursuant to Sections 2.10, 4.06(b), 4.15 or 4.16 hereof; and
- (d) Undelivered Bonds.

“Person” means an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

“Pledged Bonds” means Bonds purchased with moneys provided to the Tender Agent, or beneficial interests in Bonds purchased with moneys provided to the Remarketing Agent, pursuant to Section 3.03(b) hereof.

“Premium” or “premium,” when used with respect to a Bond, means any amount in addition to the principal of and interest on such Bond that is required to be paid in the event of the exercise of an option or obligation to pay the principal of such Bond prior to maturity as

permitted or required by this Indenture, and, when used with respect to the Loan, means any amount in addition to the principal of and interest on the Loan that is required to be paid pursuant to an option or obligation to pay the principal of the Loan prior to maturity as permitted or required by the Loan Agreement.

“Prepayment” or “prepayment,” when used with respect to the Loan, means the payment of all or a portion of the principal of the Loan prior to maturity, except for a payment made in advance of the scheduled due date thereof that is not to be applied against the outstanding principal balance of the Loan until such due date.

“Project” means the acquisition, construction, installation and equipping of the facilities, as described more fully in Exhibit A to the Loan Agreement, to be used by the Borrower.

“Purchase Fund” means the Fund of that name authorized pursuant to Section 3.01(b) of this Indenture.

“Qualified Investments” means investments in:

- (i) Federal Securities;
- (ii) Escrowed Municipals;
- (iii) Bonds, debentures or notes or other evidences of indebtedness issued or guaranteed by any of the following agencies: Export-Import Bank of the United States; Federal National Mortgage Association; Government National Mortgage Association; Federal Financing Bank; Federal Intermediate Credit Bank; Bank for Cooperatives; Federal Land Bank; Federal Home Loan Bank; Farmers Home Administration; and the Federal Home Loan Mortgage Association;
- (iv) Certificates of deposit issued by or interest bearing time deposit accounts with banks or savings banks organized under the laws of the Commonwealth of Kentucky or the United States of America including the Trustee, which deposits or certificates are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or which banks or savings banks, including the Trustee, have capital, surplus and undivided profits in excess of \$50,000,000 (provided that no such deposit or certificate shall be in excess of 10% of such capital surplus and undivided profits, in either case);
- (v) Repurchase agreements with banks or other financial institutions, including the Trustee (if the Trustee otherwise qualifies), rated in one of the four highest rating categories by Standard & Poor’s or Moody’s Investors Service, which are fully collateralized by obligations described in clauses (i) or (iii) based upon market value, which obligations are in the possession of the Trustee or its agent and are free and clear of all security interests, liens or other rights of any third party, and in which obligations the Trustee has a first, perfected security interest; provided that any financial institution which is a broker-dealer must be a member of the Securities Investor Protection Corporation;

(vi) Bonds, notes or commercial paper excludable from gross income for purposes of federal income taxation under Section 103 of the Code, rated, at the time of purchase, in any of the three highest full rating categories by Moody's Investors Service and Standard & Poor's;

(vii) Bonds, debentures or other obligations rated, at the time of purchase, at least AA or the equivalent thereof by Standard & Poor's and at least Aa or the equivalent thereof by Moody's Investors Service;

(viii) Shares of a regulated investment company, rated, at the time of purchase, in one of the four highest rating categories by Standard & Poor's or Moody's Investors Service, if during any quarter of its taxable year such company (a) is a regulated investment company (as defined in Section 851(a) of the Code) which, for the taxable year, meets the requirements of Section 852(a) of the Code, (b) has authorized and outstanding only one class of stock, and (c) to the extent practicable, invests all of its assets in tax-exempt securities which are deemed investment grade quality, if at least 98% of its gross income is derived from interest on or gains from the sale or other disposition of such tax-exempt bonds or if the weighted average value of its assets is represented by investments in such tax-exempt bonds;

(ix) Mutual funds, money market funds (including any money market fund for which the Trustee or any affiliate of the Trustee provides services for a fee) or similar investment accounts which invest solely in Qualified Investments specified in clauses (i), (ii), (v), (viii) or (x) hereof and are rated, at the time of purchase, in one of the four highest rating categories by Standard & Poor's or Moody's Investors Service;

(x) Specifically maturing interests in a fund or funds composed entirely of Federal Securities and stripped by the Federal Reserve Bank of New York; and

(xi) If the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, any other security to which the Credit Provider consents.

"Rating Agency" or "Rating Agencies" means Standard & Poor's and/or Moody's Investors Service, according to which of such rating agencies then rates a Bond; and provided that if neither of such rating agencies then rates a Bond, the term "Rating Agency" or "Rating Agencies" shall refer to any national rating agency (if any) that provides such rating. All references to the "Rating Agency" or the "Rating Agencies" shall be of no effect with respect to any Bond during any Daily Rate Period, Weekly Rate Period, Adjustable Rate Period or Fixed Rate Period in which such Bond is not rated.

"Rebate Fund" means the Rebate Fund authorized pursuant to Section 5.15 of this Indenture.

"Record Date" means (a) with respect to any Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date, or Adjustable Rate Interest Payment Date when the Adjustable Rate Period is 365 days or less, the close of business on the Business Day next preceding such Interest Payment Date, and (b) with respect to any Adjustable Rate Interest Payment Date when the Adjustable Rate Period is more than 365 days, or Fixed Rate Interest



Payment Date, the close of business on the fifteenth day of the calendar month next preceding such Interest Payment Date.

“Refunding Account” means the Refunding Account of the Construction Fund created pursuant to Section 5.03 hereof.

“Registration Books” means the registration records of the Issuer, maintained by the Trustee, as registrar for the Bonds.

“Reimbursement Agreement” means with respect to each Credit Facility, the agreement pursuant to which such Credit Facility is issued on behalf of the Borrower, including all amendments thereof and supplements thereto. All references to Reimbursement Agreement shall be of no effect with respect to any Bond at any time that such Bond is not secured by a Credit Facility, except with respect to vested rights.

“Remarketing Account” means the Remarketing Account to be held by the Trustee authorized pursuant to Section 3.01(b) of this Indenture.

“Remarketing Agent” means the Remarketing Agent appointed in accordance with Section 8.11 hereof, and means, initially, J.P. Morgan Securities Inc. “Principal Office” of the Remarketing Agent means the office thereof designated in writing to the Issuer, the Trustee, the Credit Provider and the Borrower, and means, initially, the office of the Remarketing Agent located at 10 South Dearborn Street, 32<sup>nd</sup> Floor, Chase Tower, Mail Code IL1-0826, Chicago, Illinois 60670, Attention: Municipal Bond Department, or at 270 Park Avenue, 6<sup>th</sup> Floor, Mail Code NY1-K104, New York, New York 10017, Attention: Short Term Trading Desk.

“Representation Letter” or “Letter of Representations” means the Issuer’s Blanket Letter of Representations, dated \_\_\_\_\_, 20\_\_, including all amendments thereof and supplements thereto.

“Revenues” means (a) the payments by the Borrower on the Loan, (b) all of the moneys received or to be received by the Issuer or the Trustee in respect of the Loan, including, without limitation, all moneys and investments in the Bond Fund, (c) all moneys and investments in the Construction Fund and Bond Fund, and (d) all income and profit from the investment on the foregoing moneys. The term “Revenues” does not include any moneys or investments in the Rebate Fund.

“Seasoned Funds” means moneys deposited by, or on behalf of, the Borrower with the Trustee and so designated by the Borrower, which moneys are (a) held in any fund, account or subaccount established hereunder in which no other moneys that are not Seasoned Funds are held and which have been on deposit with the Trustee for a continuous period of at least 123 consecutive days from their receipt by the Trustee, during and prior to which period no Act of Bankruptcy has occurred or (b) accompanied by an unqualified opinion of nationally recognized bankruptcy counsel (selected by the Borrower and acceptable to the Trustee), which opinion is acceptable to Moody’s Investors Service (if any Bonds are then rated by Moody’s Investors Service) and Standard & Poor’s (if any Bonds are then rated by Standard & Poor’s) and the Trustee to the effect that such moneys are not subject to avoidance as a preferential transfer under Section 547 of the United States Bankruptcy Code, and are recoverable under Section 550

of the United States Bankruptcy Code, in the event of the filing of a petition under the United States Bankruptcy Code by or against the Issuer or the Borrower.

“State” means the Commonwealth of Kentucky.

“Tax Certificate” means the Tax Compliance Certificate dated the Closing Date, and delivered by the Borrower with respect to certain tax matters relating to the Bonds.

“Tender Agent” means the Tender Agent, if any (or any successor to its interests), appointed in accordance with Section 8.10 hereof. “Principal Office” of the Tender Agent means the office thereof designated by the Tender Agent in writing to the Issuer, the Trustee, the Credit Provider, the Remarketing Agent and the Borrower.

“Trustee” means \_\_\_\_\_, a national banking association with a corporate trust office in Louisville, Kentucky, not in its individual capacity but solely as Trustee under this Indenture, or any successor trustee or co-trustee serving as such under this Indenture. All references in this Indenture to the “designated corporate trust office” of the Trustee shall mean the office of the Trustee located at the address set forth in Section 11.04 hereof.

“Trust Estate” means the property assigned, granted or conveyed to the Trustee pursuant to the Granting Clauses of this Indenture.

“Unassigned Rights” means certain of the rights of the Issuer pursuant to the Loan Agreement, and the right to receive notices and other documents, and to give and withhold consents under the Loan Agreement, which rights are not assigned to the Trustee hereunder, as set forth in the Loan Agreement.

“Undelivered Bonds” has the meaning ascribed to such term in the form of Bond set forth in Exhibit A hereto.

“Underwriter” means J.P. Morgan Securities Inc., Chicago, Illinois.

“Weekly Rate” means the interest rate per annum on a Bond established in accordance with Section 2.02(C) hereof.

“Weekly Rate Conversion Date” means the Daily Rate Interest Payment Date or the Adjustable Rate Interest Payment Date on which a Bond begins to bear interest at a Weekly Rate in accordance with the terms hereof.

“Weekly Rate Interest Payment Date” means (a) with respect to the Weekly Rate Period commencing on the Closing Date, the date specified in the form of Bond, and thereafter the first Business Day of each month and the maturity date of a Bond (to the extent such Bond is in the Weekly Rate Mode at such time), and (b) with respect to each Weekly Rate Period commencing after a Daily Rate Period or an Adjustable Rate Period, the first Business Day of each month, commencing with the first Business Day of the month next succeeding the Weekly Rate Conversion Date, and the maturity date of a Bond (to the extent such Bond is in the Weekly Rate Mode at such time).

“Weekly Rate Mode” means the Mode in which a Bond bears interest at a Weekly Rate.

“Weekly Rate Period” means the period from the Closing Date until the earlier of the following Conversion Date or the maturity date of a Bond (to the extent such Bond is in the Weekly Rate Mode at such time), and, should a Weekly Rate Conversion Date occur, the period from the Weekly Rate Conversion Date to the earlier of the following Conversion Date or the maturity date of a Bond (to the extent such Bond is in the Weekly Rate Mode at such time).

Section 1.02. Article and Section Headings. The headings or titles of the several Articles and Sections of this Indenture, and the Table of Contents appended hereto, are solely for convenience of reference and shall not affect the meaning or construction of the provisions hereof.

Section 1.03. Interpretation. The singular form of any word used herein shall include the plural, and vice versa, if applicable. The use of a word of any gender shall include all genders, if applicable. This Indenture and all of the terms and provisions hereof shall be construed so as to effectuate the purposes contemplated hereby and to sustain the validity hereof. All references to any person or entity defined in Section 1.01 shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such person or entity.

(End of Article I)

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

Section 2.01. Authorization of Bonds. The Bonds are hereby authorized to be issued in the aggregate principal amount of \$13,500,000, designated “Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds, Series 2008 (Spalding University, Inc. Project)”. The Bonds shall be issued for the purpose of providing funds to enable the Issuer to make the Loan to the Borrower, for the purpose of financing certain costs of the Project. No Bonds may be issued pursuant to this Indenture in addition to those authorized by this Section, except Bonds issued upon transfer or exchange pursuant to Section 4.06 hereof, temporary Bonds issued pursuant to Section 4.15 hereof, replacement Bonds issued pursuant to Section 4.16 hereof, Bonds issued pursuant to Section 2.10 hereof, and Bonds issued in exchange for Undelivered Bonds.

Section 2.02. Issuance of Bonds; Terms of Bonds.

(A) General Provisions. The Bonds shall be issued pursuant to this Indenture for the purposes described herein, and the proceeds shall be lent to the Borrower pursuant to the Loan Agreement. The Bonds (excluding Pledged Bonds, Borrower Bonds and Bonds in a Fixed Rate Mode) shall be secured by the Credit Facility, and shall have such other terms, conditions and characteristics as specified in the Bond form attached hereto as Exhibit A, and in the Loan Agreement. The Bonds (a) shall be dated as provided in paragraph (K) of this Section 2.02, (b) shall be initially issued in the aggregate principal amount of \$13,500,000, (c) shall bear interest as set forth in paragraphs (B) through (E) of this Section, until paid, at the rates therein provided (computed, while a Bond is in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less, on the basis of a 365- or 366-day year, for the actual number of days elapsed; and, while a Bond is in an Adjustable Rate Mode with an Adjustable Rate Period of more than 365 days or the Fixed Rate Mode, on the basis of a 360-day year, composed of twelve 30-day months), payable on each Interest Payment Date, and (d) shall mature on \_\_\_\_\_ 1, 20\_\_\_. All Bonds need not be in the same Mode simultaneously; however, each Bond may be in only one Mode at any one time.

(B) Daily Rate Provisions. Each Bond in the Daily Rate Mode shall bear interest at a Daily Rate from each Daily Rate Conversion Date to the earlier of its redemption, the succeeding Conversion Date or its maturity date. The Daily Rate for the initial Interest Period of a Daily Rate Period shall be established by the Remarketing Agent on or prior to the first day of the Daily Rate Period, in its sole judgment having due regard for prevailing financial market conditions, at the lowest rate of interest which will permit such Bond to be remarketed at par on the first day of the Daily Rate Period. The Daily Rate for each succeeding Interest Period during a Daily Rate Period shall be the lowest rate of interest which will, in the sole judgment of the Remarketing Agent having due regard for prevailing financial market conditions, permit such Bond to be remarketed at par on the first day of such Interest Period. Notwithstanding the foregoing, the Daily Rate so established shall not be set at a rate greater than the Maximum Rate. In the event no Daily Rate is determined by the Remarketing Agent for an Interest Period during a Daily Rate Period, the Daily Rate for such Interest Period shall be the Daily Rate in effect for the immediately preceding Interest Period during such Daily Rate Period. Each determination of the Daily Rate by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Credit Provider, the Tender Agent and the Bondholders.

By 11:00 a.m., New York City time, on the first day of each Interest Period during a Daily Rate Period, the Remarketing Agent shall determine the Daily Rate applicable for such Interest Period. By 11:00 a.m., New York City time, on the Business Day preceding each Daily Rate Interest Payment Date the Remarketing Agent shall furnish to the Trustee by facsimile transmission, and the Trustee shall furnish to the Borrower, the Credit Provider and the Tender Agent, the Daily Rates applicable to such Bonds for each Interest Period from and including the later of the Daily Rate Conversion Date or the immediately preceding Daily Rate Interest Payment Date through and including the date of transmission. Should any Bondholder or Beneficial Owner request in writing the Daily Rate applicable to such Bonds for any particular Interest Period during a Daily Rate Period, the Trustee (if such Bonds are not held in a book-entry only system) or the Remarketing Agent (if such Bonds are held in a book-entry only system) shall furnish notice (by facsimile transmission) of the Daily Rate for such Interest Period to such requesting Bondholder or Beneficial Owner, respectively.

(C) Weekly Rate Provisions. Each Bond in the Weekly Rate Mode shall bear interest at a Weekly Rate from the Closing Date or a subsequent Weekly Rate Conversion Date to the earlier of its redemption, the succeeding Conversion Date or its maturity date. The initial Weekly Rate for the Bonds effective as of the Closing Date shall be established by the Underwriter. The Underwriter shall establish such rate in the same manner as the Remarketing Agent establishes the Weekly Rate for each subsequent Weekly Rate Period as described in this Section 2.02(C). The Weekly Rate for the initial Interest Period and each subsequent Interest Rate Period shall be established by the Remarketing Agent on or prior to the first day of the Weekly Rate Period, in its sole judgment having due regard for prevailing financial market conditions, at the lowest rate of interest which will permit such Bonds to be remarketed at par on the first day of the Weekly Rate Period. The Weekly Rate for each succeeding Interest Period during a Weekly Rate Period shall be the lowest rate of interest which will, in the sole judgment of the Remarketing Agent having due regard for prevailing financial market conditions, permit such Bonds to be remarketed at par on the first day of such Interest Period. Notwithstanding the foregoing, the Weekly Rate so established shall not be set at a rate greater than the Maximum Rate. In the event no Weekly Rate is determined by the Remarketing Agent for an Interest Period during a Weekly Rate Period, the Weekly Rate for such Interest Period shall be the Weekly Rate in effect for the immediately preceding Interest Period during such Weekly Rate Period. In the event any such Bond shall commence to bear interest at a Weekly Rate as a result of the provisions described in Section 2.02(D) hereof, on the date that the Weekly Rate is so established, the Remarketing Agent shall follow the procedures for establishing a Weekly Rate for such Bond set forth in this paragraph. In the event no such Weekly Rate is determined by the Remarketing Agent for the first week of such Weekly Rate Period established as a result of the provisions described in Section 2.02(D) hereof, the Weekly Rate for such week shall be the Adjustable Rate in effect for the immediately preceding Adjustable Rate Period. Each determination of the Weekly Rate by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Credit Provider, the Tender Agent and the Bondholders.

On Wednesday (unless Wednesday is not a Business Day, then the next preceding Business Day) of each calendar week during a Weekly Rate Period, with respect to each Interest Period after the initial Interest Period of a Weekly Rate Period, the Remarketing Agent shall determine and furnish to the Trustee, by telephonic notice confirmed in writing or facsimile transmission, the Weekly Rate for the following Interest Period and the Trustee shall furnish the

same to the Borrower, the Credit Provider and the Tender Agent by close of business on the following Business Day. Should any Bondholder or Beneficial Owner request in writing notice of the Weekly Rate applicable to such Bonds for any particular Interest Period during a Weekly Rate Period, the Trustee (if such Bonds are not held in a book-entry only system) or the Remarketing Agent (if such Bonds are held in a book-entry only system) shall furnish notice (by first class mail, postage prepaid) of the Weekly Rate for such Interest Period to such requesting Bondholder or Beneficial Owner, respectively.

While any Bonds are in the Weekly Rate Mode, if at any time the Remarketing Agent shall determine that, in its reasonable judgment, the scheduled rate determination day or rate change day has become inappropriate (taking into account general market practice with respect to periodic adjustment of rates on instruments comparable to the Bonds, whether based upon the time of compilation or reporting of any interest rate or financial index or indicator or otherwise), the Remarketing Agent may, upon receipt of an opinion of Bond Counsel acceptable to the Trustee, to the effect that such change will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes, after consultation with the Borrower, designate a new scheduled rate determination day and/or rate change day, to remain in effect until another redetermination of scheduled rate determination day or rate change day in accordance with this paragraph. The Remarketing Agent shall give written notice to the Trustee, and the Trustee shall give written notice to the Tender Agent, the Credit Provider, the Issuer and the Borrower, of any change in scheduled rate determination day and/or rate change day, and such change shall become effective on the first scheduled rate determination day or rate change day, as the case may be, so designated occurring not less than 14 days following the giving of such notices. Promptly upon receipt of such notice, the Trustee shall notify or cause the Remarketing Agent to notify each affected Bondholder of such change in writing.

(D) Adjustable Rate Provisions. Each Bond in the Adjustable Rate Mode shall bear interest at an Adjustable Rate from an Adjustable Rate Conversion Date or an Adjustable Rate Reset Date, as appropriate, to the earlier of its redemption, the succeeding Conversion Date, the following Adjustable Rate Reset Date or its maturity date (unless and until the Borrower elects and effects a conversion of such Bonds from the Adjustable Rate Mode to another Mode, or a change in the duration of the Adjustable Rate Period). If, at the end of the then current Adjustable Rate Period, the Borrower does not elect and effect a conversion of any Bond in an Adjustable Rate Mode from the Adjustable Rate Mode to another Mode, or elect to change or continue the duration of the Adjustable Rate Period, that Bond shall: (a) if it is in an Adjustable Rate Period of 365 days or less, convert to a Weekly Rate Mode; (b) if it is in an Adjustable Rate Period of 366 days or more and an opinion of Bond Counsel is furnished to the Trustee stating that such change is authorized or permitted by this Indenture, the Loan Agreement and the Act and that such change will not adversely affect the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds, convert to a Weekly Rate Mode; or (c) if it is in an Adjustable Rate Period of 366 days or more and such Bond Counsel opinion is not so furnished, remain in an Adjustable Rate Mode with an Adjustable Rate Period of 366 days; provided, however, if the period of time between the applicable Adjustable Rate Reset Date and the maturity date of such Bond is less than 366 days, the new Adjustable Rate Period shall end on the maturity date of such Bond.

The Adjustable Rate (and the duration of the Adjustable Rate Period) shall be established by the Remarketing Agent no later than 12:00 noon, New York City time, on the first

day of each Adjustable Rate Period in its sole judgment having due regard for prevailing financial market conditions at the lowest rate which will permit such Bonds to be sold at par on the first day of such Adjustable Rate Period. Notwithstanding the foregoing, the Adjustable Rate so established shall not be set at a rate greater than the Maximum Rate. On the date that the Adjustable Rate is so established, the Remarketing Agent shall furnish to the Trustee, and the Trustee shall furnish to the Borrower, the Credit Provider and the Tender Agent, by facsimile transmission, the Adjustable Rate for the following Adjustable Rate Period and the duration of such Adjustable Rate Period. In the event no Adjustable Rate is determined by the Remarketing Agent for an Adjustable Rate Period the duration of which has been established as provided above, the Adjustable Rate for such Adjustable Rate Period shall be the Adjustable Rate in effect for the immediately preceding Adjustable Rate Period. Each determination of an Adjustable Rate by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Credit Provider, the Tender Agent and the Bondholders.

(E) Fixed Rate Provisions. Each Bond in the Fixed Rate Mode shall bear interest at the Fixed Rate established in accordance with the following paragraph from the Fixed Rate Conversion Date to the earlier of its redemption or its maturity date. The Fixed Rate for each Bond in the Fixed Rate Mode shall be set forth in the firm underwriting or purchase contract described in Section 2.02(F)(d)(ii) hereof. The Fixed Rate so established shall not be set at a rate greater than the Maximum Rate. The determination of the Fixed Rate for each Bond then being converted in accordance with the following paragraph and set forth in the firm underwriting or purchase contract described in Section 2.02(F)(d)(ii) hereof shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Tender Agent and the Bondholders.

Except as provided below, upon conversion of the interest rate on any Bonds to a Fixed Rate, all such Bonds then being converted shall mature serially on \_\_\_\_\_ 1 of each year through and including the final maturity date in accordance with the terms specified below. Upon conversion, the firm of bond underwriters or recognized institutional investors who agree to underwrite or purchase such Bonds in accordance with Section 2.02(F)(d)(ii) hereof shall deliver to the Borrower and the Trustee a certificate that includes (a) a schedule specifying the principal amount of Bonds maturing or to be called for mandatory sinking fund redemption on \_\_\_\_\_ 1 of each year, commencing on the first \_\_\_\_\_ 1 occurring after the Fixed Rate Conversion Date, through and including the final maturity date and (b) a schedule specifying the interest on such Bonds to be paid on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing with the first \_\_\_\_\_ 1 or \_\_\_\_\_ 1 occurring after the Fixed Rate Conversion Date, through and including the final maturity date. In determining the amount of interest and principal that shall be payable on such dates, such firm of bond underwriters or institutional investors shall use the following guidelines:

(a) Such firm of bond underwriters or institutional investors shall set the interest rate on each Bond then being converted to be the lowest interest rate that will enable such Bond upon conversion to be remarketed at par, assuming that all Bonds then being converted will mature serially on \_\_\_\_\_ 1 of each year through and including the final maturity date and taking into account the fact that such Bond shall mature on a particular \_\_\_\_\_ 1 through and including the final maturity date in accordance with (b) below, all such Bonds shall pay interest semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, all such Bonds maturing on a particular \_\_\_\_\_ 1 shall bear interest at the same rate, and all such Bonds shall only be remarketed at par; and

(b) The schedule of principal payments shall be set to achieve annual level debt service (including both principal and interest) for all remaining Bond Years or portions thereof and to the extent such annual level debt service cannot be exactly achieved due to the denomination of the Bonds then being converted, such annual level debt service shall be achieved by rounding down all principal amounts to the next \$5,000 denomination if the Authorized Denomination for such Bonds is \$5,000, and rounding up the last principal payment; provided, that the schedule of principal payments need not be set as described above if the Borrower shall provide to the Issuer, the Trustee and such firm of bond underwriters or institutional investors an opinion of Bond Counsel to the effect that the setting of an alternative schedule of principal payments will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

With respect to those Bonds, if any, that mature on or after the eleventh \_\_\_\_\_ 1 occurring after the Fixed Rate Conversion Date therefor, if, after establishing the interest rates and the schedule of principal payments for the Bonds then being converted in accordance with the above guidelines, Bonds maturing in three or more consecutive years bear interest at the same per annum interest rate, such Bonds shall no longer be deemed to mature serially but shall be deemed to mature on the \_\_\_\_\_ 1 of the last consecutive year that Bonds bearing such interest rate were to have matured serially and shall be subject to mandatory sinking fund redemption prior to maturity on \_\_\_\_\_ 1 in accordance with the principal payment schedule established therefor in accordance with the above guidelines.

If the designation referred to above cannot be made and the opinion of Bond Counsel described in the immediately succeeding paragraph has not otherwise been delivered to the Trustee and the Issuer by the Borrower, then no conversion shall be effected.

The foregoing notwithstanding, another method of providing for payment of principal on the Bonds after the Fixed Rate Conversion Date may be established by the firm of bond underwriters or institutional investors underwriting or purchasing such Bonds if there is delivered to the Trustee and the Issuer by the Borrower an opinion of Bond Counsel to the effect that utilization of such other method will not adversely affect the validity or enforceability in accordance with their terms of any Bonds or any exemption from federal income taxation to which interest on the Bonds would otherwise be entitled.

(F) Conversion Options.

(a) To Daily Rate Mode. The interest rate on any Bond shall be converted from the Adjustable Rate Mode or the Weekly Rate Mode to the Daily Rate Mode if the Borrower shall notify in writing the Trustee of its irrevocable election to effect such a conversion, specifying in the notice the identification of the Bonds to be converted, the Adjustable Rate Interest Payment Date (which shall be the last Adjustable Rate Interest Payment Date of the then current Adjustable Rate Period if the conversion is from the Adjustable Rate Mode to the Daily Rate Mode) or the Weekly Rate Interest Payment Date (if the conversion is from the Weekly Rate Mode to the Daily Rate Mode) on which the Daily Rate Mode is to commence, and, when the conversion is from an Adjustable Rate Mode with an Adjustable Rate Period in excess of 365 days, delivering with such notice an opinion of Bond Counsel (which opinion shall be confirmed on the Daily Rate Conversion Date) stating that such conversion to the Daily Rate Mode is authorized or permitted by this Indenture, the Loan Agreement and the



Act, and that conversion to the Daily Rate Mode in accordance with the provisions of this Indenture will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Bonds. If such Bond is not then held under the Issuer's book-entry only system, further notice shall be given to the Trustee including the following information: the CUSIP number and Bond number of any Bond being converted. Upon receipt by the Trustee of such notice from the Borrower, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Tender Agent, the Remarketing Agent, the Issuer and the Credit Provider.

The Daily Rate Conversion Date shall be the Adjustable Rate Interest Payment Date or the Weekly Rate Interest Payment Date, as appropriate, specified by the Borrower, but, in any event, not less than 30 days succeeding receipt by the Trustee, the Tender Agent, the Credit Provider and the Remarketing Agent of notice of the Borrower's election to effect such conversion. Such Bond shall be subject to mandatory tender and purchase on the Daily Rate Conversion Date.

In the event any condition precedent to conversion to the Daily Rate Mode is not fulfilled (including, but not limited to, the establishment of a Daily Rate by the Remarketing Agent for the initial Interest Period of the Daily Rate Period), the mandatory tender nonetheless shall be effectuated. After the mandatory tender date such Bond shall continue in its then current Mode, for the same period and bear the same interest rate as was last borne by such Bond in such Mode; provided, however, in the case when the then current Mode is an Adjustable Rate Mode, such Bond shall be in the Mode and at the interest rate established pursuant to Section 2.02(D) hereof. In the event such Bond is not remarketed on the mandatory tender date and becomes a Pledged Bond or a Borrower Bond, the Remarketing Agent shall be entitled, in accordance with Section 3.07 hereof, thereafter to reset the Daily Rate, the Weekly Rate or the Adjustable Rate relating to the Bond, as appropriate (under the conditions and subject to the limitations provided above), to such new rate as is necessary (but not to exceed the Maximum Rate) to remarket the Pledged Bond or Borrower Bond at par.

(b) To Weekly Rate Mode. The interest rate on any Bond shall be converted from the Daily Rate Mode or the Adjustable Rate Mode to the Weekly Rate Mode if the Borrower shall notify in writing the Trustee of its irrevocable election to effect such a conversion, specifying in the notice the identification of the Bond(s) to be converted, the Daily Rate Interest Payment Date (if the conversion is from the Daily Rate Mode to the Weekly Rate Mode) or the Adjustable Rate Interest Payment Date (which shall be the last Adjustable Rate Interest Payment Date of the then current Adjustable Rate Period if the conversion is from the Adjustable Rate Mode to the Weekly Rate Mode) on which the Weekly Rate Mode is to commence, and, when the conversion is from an Adjustable Rate Mode with an Adjustable Rate Period in excess of 365 days, delivering with such notice an opinion of Bond Counsel (which opinion shall be confirmed on the Weekly Rate Conversion Date) stating that such conversion to the Weekly Rate Mode is authorized or permitted by this Indenture, the Loan Agreement and the Act, and that conversion to the Weekly Rate Mode in accordance with the provisions of this Indenture will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Bonds. If such Bond is not then held under the Issuer's book-entry only system, further notice shall be given to the Trustee including the following information: the CUSIP number and Bond number of any Bond being converted. Upon receipt by the Trustee of such notice from the Borrower, the Trustee shall immediately cause the same

information contained in such notice to be delivered to the Tender Agent, the Remarketing Agent, the Issuer and the Credit Provider.

The Weekly Rate Conversion Date shall be the Daily Rate Interest Payment Date or the Adjustable Rate Interest Payment Date, as appropriate, specified by the Borrower, but, in any event, not less than 30 days succeeding receipt by the Trustee, the Tender Agent, Credit Provider and the Remarketing Agent of notice of the Borrower's election to effect such conversion. Such Bond shall be subject to mandatory tender and purchase on the Weekly Rate Conversion Date.

In the event any condition precedent to conversion to the Weekly Rate Mode is not fulfilled (including, but not limited to, the establishment of a Weekly Rate by the Remarketing Agent for the initial Interest Period of the Weekly Rate Period), the mandatory tender nonetheless shall be effectuated. After the mandatory tender date such Bond shall continue in its then current Mode, for the same period and bear the same interest rate as was last borne by such Bonds in such Mode; provided, however, in the case when the then current Mode is an Adjustable Rate Mode, such Bond shall be in the Mode and at the interest rate established pursuant to Section 2.02(D) hereof. In the event such Bond is not remarketed on the mandatory tender date and becomes a Pledged Bond or a Borrower Bond, the Remarketing Agent shall be entitled, in accordance with Section 3.07 hereof, thereafter to reset the Daily Rate, the Weekly Rate or the Adjustable Rate relating to such Bond, as appropriate (under the conditions and subject to the limitations provided above), to such new rate as is necessary (but not to exceed the Maximum Rate) to remarket the Pledged Bond or Borrower Bond at par.

(c) To Adjustable Rate Mode or New Adjustable Rate Period. The interest rate on any Bond shall be converted from the Daily Rate Mode or the Weekly Rate Mode to the Adjustable Rate Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, if the Borrower shall notify in writing the Trustee of its irrevocable election to effect such a conversion, specifying in the notice the identification of the Bond(s) to be converted, the Daily Rate Interest Payment Date (if the conversion is from the Daily Rate Mode to the Adjustable Rate Mode), the Weekly Rate Interest Payment Date (if the conversion is from the Weekly Rate Mode to the Adjustable Rate Mode) or the last Adjustable Rate Interest Payment Date of the then current Adjustable Rate Period (if the conversion is from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration) on which the Adjustable Rate Mode, or new Adjustable Rate Period, is to commence and the Adjustable Rate Interest Payment Date on which the new Adjustable Rate Period is to terminate, and, when the conversion is either: (i) from a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Period of 365 days or less in duration to an Adjustable Rate Mode with an Adjustable Rate Period in excess of 365 days in duration, or (ii) from an Adjustable Rate Mode with an Adjustable Rate Period in excess of 365 days in duration to an Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less in duration, delivering with such notice an opinion of Bond Counsel (which opinion shall be confirmed on the Adjustable Rate Conversion Date or Adjustable Rate Reset Date, as appropriate) stating that such conversion to the Adjustable Rate Mode or to a new Adjustable Rate Period, as appropriate, is authorized or permitted by this Indenture, the Loan Agreement and the Act, and that conversion to the Adjustable Rate Mode or a new Adjustable Rate Period, as appropriate, in accordance with the provisions of this Indenture will not adversely affect the exclusion from gross income for purposes of Federal income taxation of interest on the Bonds. If such Bond is not then held under the Issuer's book-entry

only system, further notice shall be given to the Trustee including the following information: the CUSIP number and Bond number of any Bond being converted. Upon receipt by the Trustee of such notice from the Borrower, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Tender Agent, the Remarketing Agent, the Issuer and the Credit Provider.

The Adjustable Rate Conversion Date or Adjustable Rate Reset Date, as appropriate, shall be the Daily Rate Interest Payment Date, the Weekly Rate Interest Payment Date or the Adjustable Rate Interest Payment Date, as appropriate, specified by the Borrower, but, in any event, not less than 30 days succeeding receipt by the Trustee, the Tender Agent, the Credit Provider and the Remarketing Agent of notice of the Borrower's election to effect such conversion or rate resetting. Such Bond shall be subject to mandatory tender and purchase on the Adjustable Rate Conversion Date or Adjustable Rate Reset Date, as appropriate.

In the event any condition precedent to conversion to the Adjustable Rate Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, is not fulfilled (including, but not limited to, the establishment of an Adjustable Rate by the Remarketing Agent for the Adjustable Rate Period), the mandatory tender nonetheless shall be effectuated. After the mandatory tender date such Bond shall continue in its then current Mode, for the same period and bear the same interest rate as was last borne by such Bond in such Mode; provided, however, in the case when the then current Mode is the Adjustable Rate Mode, such Bond shall be in the Mode and at the interest rate established pursuant to Section 2.02(D) hereof. In the event such Bond is not remarketed on the mandatory tender date and becomes a Pledged Bond or a Borrower Bond, the Remarketing Agent shall be entitled, in accordance with Section 3.07 hereof, to reset the Daily Rate, the Weekly Rate or the Adjustable Rate relating to such Bond, as appropriate (under the conditions and subject to the limitations provided above), to such new rate as is necessary (but not to exceed the Maximum Rate) to remarket such Pledged Bond or Borrower Bond at par.

(d) To Fixed Rate Mode. The interest rate on any Bond shall be converted from the Daily Rate Mode, the Weekly Rate Mode or the Adjustable Rate Mode to the Fixed Rate Mode if the Borrower shall notify in writing the Trustee of its irrevocable election to effect such a conversion, specifying in the notice the identification of the Bond(s) to be converted, the Daily Rate Interest Payment Date (if the conversion is from the Daily Rate Mode to the Fixed Rate Mode), the Weekly Rate Interest Payment Date (if the conversion is from the Weekly Rate Mode to the Fixed Rate Mode) or the Adjustable Rate Interest Payment Date (which shall be the last Adjustable Rate Interest Payment Date of the then current Adjustable Rate Period if the conversion is from the Adjustable Rate Mode to the Fixed Rate Mode) on which the Fixed Rate Period is to commence, and delivering with such notice: (i) an opinion of Bond Counsel (which opinion shall be confirmed on the Fixed Rate Conversion Date) stating that such conversion to the Fixed Rate Mode is authorized or permitted by this Indenture, the Loan Agreement and the Act, and that conversion to the Fixed Rate Mode in accordance with the provisions of this Indenture will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Bonds; (ii) a firm underwriting or purchase contract from a recognized firm of bond underwriters or recognized institutional investors, which can be the Remarketing Agent, to underwrite or purchase all Bonds that are to be converted to the Fixed Rate Mode at a price of 100% of the principal amount thereof to the date of delivery thereof at an agreed upon interest rate (not in excess of the Maximum Rate) for each Bond to be so converted

which such underwriter or institutional investor certifies is the lowest rate that will permit such Bond to be sold at par on the first day of the Fixed Rate Period and containing a maturity schedule, and if applicable a mandatory sinking fund redemption schedule, prepared in accordance with Section 2.02(E) hereof. If such Bond is not then held under the Issuer's book-entry only system, further notice shall be given to the Trustee including the following information: the CUSIP number and Bond number of any Bond being converted. Upon receipt by the Trustee of such notice from the Borrower, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Tender Agent, the Remarketing Agent, the Issuer and the Credit Provider.

The Fixed Rate Conversion Date shall be the Daily Rate Interest Payment Date, the Weekly Rate Interest Payment Date or the Adjustable Rate Interest Payment Date, as appropriate, specified by the Borrower, but, in any event, not less than 30 days succeeding receipt by the Trustee, the Tender Agent, the Credit Provider and the Remarketing Agent of such notice of the Borrower's election to effect such conversion. Such Bond shall be subject to mandatory tender and purchase on the Fixed Rate Conversion Date.

In the event any condition precedent to conversion to the Fixed Rate Mode is not fulfilled (including, but not limited to, the establishment of the Fixed Rate for the Fixed Rate Period), the mandatory tender nonetheless shall be effectuated. After the mandatory tender date such Bond shall continue in its then current Mode, for the same period and bear the same interest rate as was last borne by such Bond in such Mode; provided, however, in the case when the then current Mode is the Adjustable Rate Mode, such Bond shall be in the Mode and at the interest rate established pursuant to Section 2.02(D) hereof. In the event such Bond is not remarketed on the mandatory tender date and becomes a Pledged Bond or a Borrower Bond, the Remarketing Agent shall be entitled, in accordance with Section 3.07 hereof, to reset the Daily Rate, the Weekly Rate or the Adjustable Rate relating to such Bond, as appropriate (under the conditions and subject to the limitations provided above), to such new rate as is necessary (but not to exceed the Maximum Rate) to remarket such Pledged Bond or Borrower Bond at par.

If less than all of the Bonds are converted to the Fixed Rate Mode, the Trustee shall establish separate accounts for all moneys relating to the Fixed Rate Bonds, and moneys in such accounts for the Fixed Rate Bonds shall not be co-mingled with any other moneys held by the Trustee (including, in particular, moneys derived from draws on the Credit Facility). Bonds in the Fixed Rate Mode are no longer secured by the Credit Facility and the Trustee shall not under any circumstances make draws on the Credit Facility in connection with any Fixed Rate Bonds.

(e) Conversion Notice. At least 30 days prior to each Conversion Date or Adjustable Rate Reset Date, as appropriate, the Trustee shall give to each affected Bondholder notice by facsimile, first class or certified mail stating: (i) the Conversion Date or Adjustable Rate Reset Date, as appropriate; and (ii) that on the Conversion Date or Adjustable Rate Reset Date, as appropriate, such Bond is subject to mandatory tender and purchase (or, if such Bond is held in a book-entry only system, that the beneficial interests in such Bond is subject to mandatory tender for purchase). In addition, if a book-entry only system is not in effect, the notice shall further state: (i) that any affected owner who has not tendered its Bond for purchase on the mandatory tender date will be deemed to have tendered its Bond for purchase on such date; and (ii) that any Undelivered Bond, for which there has been irrevocably deposited in trust

with the Trustee or the Tender Agent on or prior to the mandatory tender date an amount of money sufficient to pay the purchase price of such Undelivered Bond on the mandatory tender date, shall be deemed to have been so purchased at the price of par plus accrued interest as of such date, and such Bond shall no longer be considered to be outstanding for purposes of this Indenture and shall no longer be entitled to the benefits of this Indenture, except for the payment of the purchase price thereof (and no interest shall accrue thereon subsequent to the mandatory tender date).

(f) No Conversion After Certain Events. No Bond shall be converted from one Mode to another Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, if an Event of Default shall have occurred and be continuing hereunder.

(g) Borrower May Assign Right to Convert Modes and Adjustable Rate Periods. The Borrower may assign or delegate its right to elect to convert any of the Bonds from one Mode to another Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, to the Remarketing Agent. If such an assignment or delegation is made, the Remarketing Agent, instead of the Borrower, shall deliver to the Trustee the notices of conversion required to be delivered pursuant to Section 2.02(F)(a)-(d) hereof, and in such event the Remarketing Agent will also deliver a copy of all such notices of conversion to the Borrower.

(G) Redemption Provisions. Each Bond is subject to redemption prior to maturity as set forth in Sections 2.06, 2.07 and 2.13 hereof.

(H) Tender Rights/Obligations. While in the Daily Rate Mode or the Weekly Rate Mode, each Bond may be optionally tendered for purchase as set forth in the form of Bond set forth in Exhibit A hereto. Bonds in the Adjustable Rate Mode and the Fixed Rate Mode are not subject to optional tender for purchase. Each Bond (other than a Pledged Bond or a Borrower Bond) is subject to mandatory tender for purchase on each Conversion Date on the date of delivery of an Alternate Credit Facility, on each Adjustable Rate Reset Date, and on the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to the Expiration of the Term of the Credit Facility (but in no event less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility), all as set forth in the form of Bond set forth in Exhibit A hereto. Bonds optionally or mandatorily tendered for purchase shall be purchased at the price of 100% of the principal amount thereof, plus accrued and unpaid interest thereon to the date of purchase.

In the case of any mandatory tender occasioned by the Expiration of the Term of the Credit Facility or the delivery of an Alternate Credit Facility, the existing Credit Facility shall be drawn upon for payment of the purchase price of tendered Bonds on the date of purchase, and the Trustee shall not surrender the existing Credit Facility unless and until such drawing for the purchase price has been honored under the existing Credit Facility.

(I) Form; Numbering. Each Bond is issuable in the form of a registered Bond without coupons in any Authorized Denomination. The Bonds shall be numbered from 1 upwards, provided that the number assigned to each definitive Bond shall be prefixed by the

letters “BK” if the Bonds are in book-entry form or “R” if the Bonds are no longer in book-entry form. Any temporary Bonds shall be prefixed by the letters “TR.”

(J) Payment Terms. Principal of, and premium, if any, on, each Bond shall be payable by the Trustee to the Bondholders upon presentation and surrender of such Bond as the same become due at the designated corporate trust processing facility of the Trustee located in Louisville, Kentucky. Interest on the Bonds shall be paid by the Trustee by check or draft drawn upon the Trustee and mailed by first class mail on the respective Interest Payment Dates to the Bondholders at their addresses shown on the Registration Books of the Trustee as of the close of business on the Record Date with respect to such Interest Payment Date, or to such other addresses as are furnished to the Trustee (in form satisfactory to the Trustee) by such Bondholders prior to such Record Date; provided that payment of interest shall be made by the Trustee by wire transfer to the Owner of \$1,000,000 or more in aggregate principal amount of Bonds upon such Owner providing the Trustee with written wire transfer instructions before the applicable Record Date and upon compliance by such Owner at the request of the Trustee with any requirements of the Trustee with respect to such wire transfers as are necessary to comply with any applicable provisions of Article IV of the Uniform Commercial Code of the State. Such interest shall be paid notwithstanding the cancellation of any Bonds upon any exchange or transfer of registration thereof subsequent to the Record Date and prior to such Interest Payment Date, except that, if and to the extent there shall be a default in the payment of the interest due on such Interest Payment Date, such defaulted interest shall be paid to the Bondholders in whose names such Bonds (or any Bond or Bonds issued upon registration of transfer or exchange thereof) are registered at the close of business on the Business Day next preceding the date of payment of such defaulted interest. Payment of principal or purchase price of, premium, if any, and interest on the Bonds shall be made in such lawful money of the United States of America as, at the respective times of payment, shall be legal tender for the payment of public and private debts.

(K) Dating. Each Bond shall be dated and initially bear interest from the Closing Date, and thereafter shall bear interest from the Interest Payment Date next preceding the date of authentication, unless (a) authenticated prior to the first Interest Payment Date, in which event such Bond shall bear interest from the Closing Date, (b) authenticated on an Interest Payment Date, in which event such Bond shall bear interest from the date of authentication, or (c) authenticated after a Record Date and before the following Interest Payment Date, in which event such Bond shall bear interest from the following Interest Payment Date. If, as shown by the records of the Trustee, interest on a Bond is in default, any Bond issued in exchange for such Bond surrendered for registration of transfer or exchange shall bear interest from the date to which interest has been paid in full on such Bond, or, if no interest has been paid on such Bond, from the Closing Date.

Section 2.03. Form of Bond. Subject to the provisions hereof with respect to special endorsement of Bonds in connection with a conversion, the Bonds, the certificate of authentication, the provision for registration and the form of assignment shall be in substantially the form set forth in Exhibit A hereto, with such appropriate variations, omissions, substitutions and insertions as are permitted or required hereby (including specifically, and without limitation, pursuant to the provisions of Article IX hereof), and may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may be required to comply with any applicable laws or rules or regulations, or as may, consistently herewith, be

determined by the officers executing such Bonds, as evidenced by their execution of the Bonds. In the preparation of definitive forms of Bonds relative to the periods before and after a Conversion Date, inapplicable provisions of the form of Bond may be omitted, as appropriate.

Section 2.04. Execution; Limited Obligations. The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of an Authorized Officer of the Issuer, and attested, under a manual or facsimile impression of the seal of the Issuer, with the manual or facsimile signature of any other Authorized Officer of the Issuer. All authorized facsimile signatures shall have the same force and effect as manual signatures. A facsimile impression of the Issuer's seal shall have the same force and effect as a manual impression. In case any Authorized Officer of the Issuer whose signature or a facsimile thereof appears on a Bond shall cease to be such officer before the delivery of such Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in the office until delivery.

The Bonds are not and never shall become general obligations of the Issuer, but are special limited obligations payable by the Issuer solely and only from the payments received under or with respect to the Trust Estate. The Bonds are issued pursuant to the Act, the Bond Ordinance and this Indenture and do not and shall never constitute an indebtedness or obligation, general or moral, or a pledge of the faith and credit of the Issuer, the State or any political subdivision thereof, within the purview of any constitutional or statutory limitation or provision or a charge against the general credit or the taxing powers, if any, of the State, the Issuer, or any political subdivision thereof. The Bonds shall never give rise to any pecuniary liability of the Issuer or the State, and neither the Issuer, the State nor any other political subdivision thereof shall be liable for the payments of principal of and premium, if any, and interest on the Bonds. The Bonds are payable from no other source, but are special, limited obligations of the Issuer, payable solely out of the Trust Estate. No owner of the Bonds shall have the right to compel any exercise of the taxing power of the Kentucky General Assembly or any political subdivision of the State to pay the Bonds or the interest or premium, if any, thereon.

No recourse shall be had for the payment of the principal of, premium, if any, or the interest on the Bonds or for any claim based thereon or any obligation, covenant or agreement in this Indenture or the Loan Agreement against any past, present or future member, officer, agent, attorney, employee, director, trustee or other official of the Issuer or any incorporator, member, officer, agent, attorney, employee, director, trustee, other official or independent contractor of the Issuer or any person executing the Bonds. No covenant, stipulation, promise, agreement or obligation contained in the Bonds, this Indenture, the Loan Agreement or any other document executed in connection therewith shall be deemed to be the covenant, stipulation, promise, agreement or obligation of any present or future member, director, trustee, officer, agent, attorney, employee or other official of the Issuer in his or her individual capacity and neither any official of the Issuer nor any officers executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

Section 2.05. Conditions Precedent to Delivery of Bonds; Authentication. The Issuer shall execute and deliver the Bonds to the Trustee, and the Trustee shall, upon receipt by the Trustee from the Underwriter of the purchase price for the Bonds, authenticate the Bonds (or cause the Tender Agent to authenticate the Bonds) and deliver them to the Underwriter. Prior to

and as a condition precedent to the authentication and delivery of the Bonds there shall be filed with and delivered to the Trustee:

(a) a copy, duly certified by an Authorized Officer of the Issuer, of the Bond Ordinance adopted by the Issuer authorizing the execution and delivery of this Indenture and the Loan Agreement, and the issuance of the Bonds;

(b) original executed counterparts of this Indenture and the Loan Agreement;

(c) a written request of the Issuer, directed to the Trustee, requesting the Trustee to authenticate the Bonds and to make them available for delivery to the initial purchasers thereof upon payment to the Trustee for the account of the Issuer of the sum specified in such written request;

(d) an opinion of Bond Counsel substantially to the effect that (i) the Bonds constitute valid and binding limited obligations of the Issuer, enforceable in accordance with their terms, subject to bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting creditors' rights and to the exercise of judicial discretion in accordance with general principles of equity, and (ii) the interest on the Bonds is excludable from gross income for federal income tax purposes under existing regulations, rulings and judicial decisions;

(e) a certificate of the Issuer stating that it has taken all procedures required by the Act for the issuance of the Bonds;

(f) the executed Initial Credit Facility;

(g) The Note of the Borrower; and

(h) opinions of counsel to the Borrower, the Issuer and the Credit Provider in form and substance satisfactory to the Trustee, Bond Counsel and the Underwriter.

No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond shall have been duly executed by the Trustee or the Tender Agent. Such executed certificate of the Trustee or the Tender Agent upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The certificate of authentication on any Bond shall be deemed to have been executed by the Trustee or the Tender Agent if signed by an authorized officer or signatory of the Trustee or the Tender Agent, but it shall not be necessary that the same officer or signatory sign the certificates of authentication on all Bonds issued hereunder.

Section 2.06. Optional Redemption of Bonds During Daily Rate Period or Weekly Rate Period. Each Bond in a Daily Rate Period or a Weekly Rate Period shall be subject to optional redemption by the Issuer (upon written direction from the Borrower) prior to maturity in whole or in part (and if in part in an amount of at least \$100,000 or integral multiples of \$5,000 in excess thereof; provided that no Bond may be redeemed in part if the principal amount to be outstanding following such partial redemption is not an Authorized Denomination of at least \$100,000) on any date selected by the Borrower, at the direction of the Borrower upon 35 days' (or such shorter period approved by the Trustee) prior written notice to the Trustee, the



Issuer, the Credit Provider and the Remarketing Agent, at a redemption price equal to the aggregate principal amount of such Bonds to be redeemed plus accrued interest thereon to the redemption date, without premium, to the extent of optional prepayments of the Loan in accordance with the Loan Agreement.

Section 2.07. Redemption of Bonds During Adjustable Rate Period or Fixed Rate Period. Each Bond in an Adjustable Rate Period or the Fixed Rate Period shall be subject to redemption by the Issuer (upon written direction from the Borrower) prior to maturity only as follows:

(a) Extraordinary Redemption Pursuant to Section 9.2 of the Loan Agreement. The Bonds are subject to extraordinary redemption in whole on any date selected by the Borrower, at a redemption price equal to the aggregate principal amount of the Bonds plus accrued interest thereon to the redemption date, without premium, upon the occurrence of certain events described in Section 9.2 of the Loan Agreement if the Borrower elects to prepay a like amount under the Loan Agreement.

(b) Optional Redemption. Each such Bond is subject to optional redemption by the Issuer (upon written direction from the Borrower) in whole or in part (and if in part in Authorized Denominations; provided that no Bond may be redeemed in part if the principal amount to be outstanding following such partial redemption is not an Authorized Denomination) on any date selected by the Borrower upon 35 days' prior written notice to the Trustee and the Issuer, and during an Adjustable Rate Period, to the Credit Provider and the Remarketing Agent, as set forth below, to the extent of optional prepayments of the Loan in accordance with the Loan Agreement, at the applicable redemption price (expressed as a percentage of the principal amount to be redeemed) relating to the length of the applicable Adjustable Rate Period or Fixed Rate Period set forth below, plus accrued interest thereon to the date of redemption:

<u>Length of Period</u> <u>(Expressed in Whole Years)*</u>	<u>Dates on Which Redemption is</u> <u>Allowed and redemption Prices**</u>
greater than 12	after 10 years at 102%, declining by 1% annually to 100%
less than or equal to 12 and greater than 4	If the Bond is in an Adjustable Rate Period, than 4 noncallable until two years prior to the end of the Adjustable Rate Period, or, if the Bond is in a Fixed Rate Period, noncallable until two years prior to maturity, then 102%, declining by 1% annually to 100%
less than or equal to 4	NOT SUBJECT TO OPTIONAL REDEMPTION

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\* The Adjustable Rate Period and the Fixed Rate Period shall be rounded up to the next whole year if otherwise a partial year.

\*\* Measured from the first day of the Adjustable Rate Period or the Fixed Rate Period, as appropriate.

Notwithstanding the schedule shown above, the Borrower may direct the Issuer to redeem Bonds prior to maturity, and the Issuer shall redeem such Bonds according to another schedule, if, with the notice of redemption, the Borrower also delivers to the Issuer and the Trustee an opinion of Bond Counsel to the effect that the new schedule of redemption will not adversely affect the validity or enforceability of the Bonds in accordance with their terms, and will not have an adverse effect on any exemption from federal income taxation to which the interest on the Bonds would otherwise be entitled.

The payment of any premium upon the optional redemption of Bonds after the Conversion Date or Adjustable Rate Reset Date, as appropriate, if such Bonds are secured by a Credit Facility, shall be made from (a) if permitted by the terms of the Credit Facility, a draw on such Credit Facility, or (b) Seasoned Funds deposited by the Borrower with the Trustee; provided, that if Seasoned Funds are insufficient or unavailable for the payment of such premium the optional redemption shall be revocable in accordance with Section 2.08(a) hereof.

(c) Optional Redemption on Last Adjustable Rate Interest Payment Date in an Adjustable Rate Period. Notwithstanding the limitation set forth in Section 2.07(b) above, each Bond in an Adjustable Rate Mode shall be subject to optional redemption by the Issuer prior to maturity, in whole or in part (and if in part in Authorized Denominations), on the last Adjustable Rate Interest Payment Date for the Adjustable Rate Period in which such Bond then operates, at the direction of the Borrower upon not less than 35 days' prior written notice to the Trustee, the Issuer, the Credit Provider and the Remarketing Agent, at a redemption price equal to 100% of the aggregate principal amount of such Bonds to be redeemed plus accrued interest thereon to the redemption date, without premium, to the extent of optional prepayments of the Note in accordance with the Loan Agreement.

(d) Mandatory Sinking Fund Redemption for Bonds in the Fixed Rate Mode. Bonds in the Fixed Rate Mode that are subject to mandatory sinking fund redemption prior to maturity as described in Section 2.02(E) hereof shall be selected for redemption by the Trustee by lot within the maturity to be so redeemed and shall be redeemed at a redemption price equal to the aggregate principal amount of such Bonds being redeemed plus accrued interest thereon to the redemption date, without premium.

#### Section 2.08. Notice of Redemption; Notice of Mandatory Tender.

(a) Official Notice of Redemption. Not less than 30 nor more than 45 days prior to any redemption date, the Trustee shall cause notice of the call for redemption, identifying each Bond or portion thereof to be redeemed, given in the name of the Issuer (upon the written direction of the Borrower), to be sent by first class or certified mail, postage prepaid, to the Tender Agent, the Credit Provider, the Remarketing Agent, the Borrower and the Owner of each Bond to be redeemed at the address of such Owner shown on the Registration Books; provided, however, that neither the failure to give any such notice nor any defect in any notice so given with respect to any Bond shall affect the sufficiency or the validity of any proceedings for the redemption of the other Bonds; and provided further, that if such notice by mail shall not have been given with respect to a Bond delivered pursuant to Section 3.01 hereof and if such Bond shall be deemed to have been selected for redemption pursuant to Section 2.10 hereof, such notice may be given by the Trustee by telephone, telecopy (receipt confirmed by telephone) or telegram, confirmed in writing, as promptly as practicable to the Owner of such Bond, but failure

to duly give such notice by telephone, telecopy or telegram or any defect therein shall not affect the validity of proceedings for the redemption of other Bonds.

Each official notice of redemption shall state: (i) the redemption date; (ii) the redemption price; (iii) if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed; (iv) a statement that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after such date; and (v) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the designated corporate trust office of the Trustee. The notice shall further specify that it is revocable, and that the redemption described therein shall not occur, if the following circumstances should exist as of the redemption date: (i) the Bonds being redeemed are secured by a Credit Facility; (ii) premium is owed upon the redemption; (iii) the Credit Facility does not allow for such premium to be paid by a draw on the Credit Facility; and (iv) any Seasoned Funds deposited by the Borrower with the Trustee are insufficient or unavailable for the payment of such premium.

(b) Further Notice of Redemption. In addition to the official notice of redemption, if the Bonds are not then held under the Issuer's book-entry only system, further notice shall be given by the Trustee in the name of the Issuer as set out below; provided, however, that neither the failure to give any such notice nor any defect in any notice so given shall affect the sufficiency or validity of any proceedings for the redemption of the Bonds. Each further notice of redemption given hereunder shall contain the information required for an official notice of redemption plus: (i) the CUSIP numbers of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the rate of interest borne by each Bond being redeemed; (iv) the maturity date of each Bond being redeemed; and (v) any other descriptive information needed to identify accurately the Bonds being redeemed.

Each further notice of redemption shall be sent at least 35 days before the redemption date by facsimile, certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of the type comprising the Bonds (such sole depository now being The Depository Trust Company of New York, New York) and to one or more national information services, chosen in the discretion of the Trustee, that disseminate notice of redemption of obligations such as the Bonds.

(c) Notice of Mandatory Tender. Bonds (excluding Pledged Bonds and Borrower Bonds) shall be subject to mandatory tender and purchase on each Conversion Date, on the date of delivery of an Alternate Credit Facility, on each Adjustable Rate Reset Date, and on the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to the Expiration of the Term of the Credit Facility as described herein (but in no event less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility). The Trustee shall, not later than 30 days prior to each Conversion Date, date of delivery of an Alternate Letter of Credit, and Adjustable Rate Reset Date, give the notice required by Section 2.02(F)(e) hereof. The Trustee shall, not later than 30 days prior to the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to the Expiration of the Term of the Credit Facility, give notice to each affected Bondholder that such Bondholder's Bonds (or beneficial interests therein) are subject to mandatory tender for purchase on such Daily

Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate (but in no event less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility). Such notice shall contain the same type of information and shall be given in the same manner as set forth in Section 2.02(F)(e) hereof and in the form of Bond set forth in Exhibit A hereto. The failure by the Trustee to give any such notice of mandatory tender for purchase, or any defect therein, shall not in any way change the rights of the Bondholders to have their Bonds purchased on any such mandatory tender date or extend the period during which Bonds may be mandatorily tendered for purchase. Any mandatory tender notice mailed as provided for herein shall be conclusively presumed to have been given, whether or not the Bondholder receives such notice.

In the case of any mandatory tender occasioned by the Expiration of the Term of the Credit Facility or the delivery of an Alternate Credit Facility, the existing Credit Facility shall be drawn upon for payment of the purchase price of tendered Bonds on the date of purchase, and the Trustee shall not surrender the existing Credit Facility unless and until such drawing for the purchase price has been honored under the existing Credit Facility.

Bonds may be redeemed at the option of the Borrower, in whole or in part, subject to minimum Authorized Denomination on any mandatory tender date in lieu of remarketing without further notice to Bondholders at a redemption price equal to the aggregate principal amount of Bonds to be redeemed plus accrued interest thereon to the redemption date, without premium to the extent of optional prepayments of the Loan in accordance with the Loan Agreement.

Section 2.09. Redemption Payments; Effect of Call for Redemption. On the date fixed for redemption of any Bond, funds for the payment thereof shall be on deposit in the Bond Fund representing (a) during a Daily Rate Period, a Weekly Rate Period or an Adjustable Rate Period, the proceeds of draws under the Credit Facility and Seasoned Funds (with respect to any optional redemption premium not paid with a draw under the Credit Facility) deposited by the Borrower with the Trustee, and (b) during the Fixed Rate Period, moneys deposited by the Borrower with the Trustee, and the Trustee hereby is authorized and directed to apply such funds to the payment of each Bond (other than Borrower Bonds with respect to payments made from a draw under the Credit Facility) or portion thereof called for redemption, together with accrued interest thereon to the redemption date and any required premium. On the date so designated for redemption, notice having been given in the manner and under the conditions hereinabove provided, any Bond or portion thereof so called for redemption shall become and be due and payable at the redemption price provided for herein.

Section 2.10. Partial Redemption. If fewer than all of the Bonds shall be called for redemption, the portion and mode of Bonds to be redeemed shall be selected by the Borrower, or if no such selection is made, by lot by the Trustee from among all Outstanding Bonds eligible for redemption (with priority consideration in favor of redemption given to those Bonds in the shortest mode), and, for this purpose, each minimum Authorized Denomination increment of principal amount represented by any Bond shall be considered a separate Bond for purposes of selecting the Bonds to be redeemed; provided, however, that no Bond may be redeemed in part if the principal amount to be Outstanding following such partial redemption is not an Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination increments of principal amount represented by any Bond are to be

called for redemption, then, upon notice of intention to redeem such Authorized Denomination increments of principal amount of such Bond, the Owner of such Bond, upon surrender of such Bond to the Trustee for payment to such Owner of the redemption price or the principal amount of such Bond called for redemption, shall be entitled to receive a new Bond or Bonds in the aggregate principal amount of the unredeemed balance of the principal amount of such Bond and in the same Mode. New Bonds representing the unredeemed balance of the principal amount of such Bonds shall be issued to the Owner thereof without charge therefor.

If the owner of any Bond of a denomination greater than an Authorized Denomination shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the Authorized Denomination increments of principal amount called for redemption (and to that extent only).

Notwithstanding the foregoing provisions, Pledged Bonds and Borrower Bonds (in that order of priority) shall be redeemed prior to any other Bonds.

While the Bonds are held in a book-entry only system, it shall be the duty of the Remarketing Agent to effect a partial redemption of the beneficial interests in the Bonds in accordance with the foregoing provisions.

Section 2.11. DTC Book-Entry. The Bonds shall be initially issued in the name of “Cede & Co.,” as nominee for The Depository Trust Company (“DTC”), as registered owner of the Bonds, and held in the custody of DTC. A single Bond certificate will be issued and delivered to DTC. The purchasers of beneficial interests in the Bonds (the “Beneficial Owners”) will not receive physical delivery of Bond certificates except as provided herein. Beneficial Owners are expected to receive a written confirmation of their purchase providing details of each Bond acquired. For so long as DTC shall continue to serve as securities depository for the Bonds as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of Bonds is to receive, hold or deliver any Bond certificate.

For every transfer and exchange of Bonds, the Beneficial Owner may be charged a sum sufficient to cover such Beneficial Owner’s allocable share of any tax, fee or other governmental charge that may be imposed in relation thereto.

Bond certificates are required to be delivered to and registered in the name of the Beneficial Owner under the following circumstances:

(a) DTC determines to discontinue providing its service with respect to the Bonds. Such a determination may be made at any time by giving 30 days’ notice to the Issuer, the Borrower and the Trustee and discharging its responsibilities with respect thereto under any applicable law; or

(b) the Borrower determines to discontinue the system of book-entry transfers through DTC (or a successor securities depository).

The Issuer, the Borrower and the Trustee will recognize DTC or its nominee as the Bondowner for all purposes, including notices and voting.

Whenever, during the term of the Bonds, beneficial ownership thereof is determined by a book entry at DTC, the requirements in this Indenture for holding, delivering or transferring Bonds shall be deemed modified to permit the appropriate person to meet the requirements of DTC as to registering or transferring the book entry to produce the same effect.

Notwithstanding anything in this Indenture to the contrary, the Issuer and the Trustee hereby agree as follows with respect to the Bonds, if and to the extent any Bond is registered in the name of “Cede & Co.” as nominee of DTC: (a) the Trustee shall give DTC all special notices required by the Representation Letter at the times, in the forms and by the means required by the Representation Letter; (b) the Trustee shall make payments to Cede & Co. at the times and by the means specified in the Representation Letter; (c) Cede & Co. shall not be required to surrender Bonds which have been partially paid or prepaid to the extent permitted by the Representation Letter; and (d) the Trustee shall set a special record date (and shall notify the registered owners of the Bonds thereof in writing) prior to soliciting any Bondholder consent or vote, such notice to be given not less than 15 calendar days prior to such record date (any Bond transferred by a registered owner subsequent to the establishment of the special record date and prior to obtaining such consent or vote shall have attached to it a copy of the notice to Bondholders by the Trustee).

If at any time DTC ceases to hold the Bonds, all references herein to DTC shall be of no further force or effect.

Section 2.12. Credit Facility; Alternate Credit Facility. The Initial Credit Facility shall be delivered to the Trustee simultaneously with the issuance and delivery of the Bonds. The Trustee shall have on deposit with it a Credit Facility that secures Bonds in a Daily, Weekly or Adjustable Rate Mode either through retention of the existing Credit Facility or through the delivery of an Alternate Credit Facility. In the Loan Agreement, the Borrower covenants not to elect to convert the Bonds from one Mode to another Mode (other than to the Fixed Rate Mode) or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, unless the Bonds in such new Mode or new Adjustable Rate Period will be secured by a Credit Facility either through retention of the existing Credit Facility or through the delivery of an Alternate Credit Facility. Each such Credit Facility or Alternate Credit Facility shall satisfy the requirements of Section 4.3 of the Loan Agreement. As long as any Bonds (other than Pledged Bonds and Borrower Bonds) in a Daily, Weekly or Adjustable Rate Mode are Outstanding, the Trustee shall not accept any Credit Facility or Alternate Credit Facility to secure such Bonds unless the requirements set forth in Section 4.3 of the Loan Agreement are satisfied. After the Fixed Rate Conversion Date with respect to any Bond, such Bond shall not be secured by a Credit Facility.

Section 2.13. Mandatory Redemption upon a Determination of Taxability. Upon the occurrence of a Determination of Taxability, the affected Bonds are subject to mandatory redemption in whole at a redemption price equal to 100% of the outstanding principal amount thereof, plus interest accrued to the redemption date, at the earliest practicable date selected by the Trustee, after consultation with the Borrower, but in no event later than 45 days following receipt by the Trustee of notice of the Determination of Taxability. The occurrence of a Determination of Taxability with respect to the Bonds will not constitute an Event of Default under this Indenture.

Within five Business Days after receipt by the Trustee of written notice of a Determination of Taxability, the Trustee shall give written notice thereof to the holders of all Bonds then outstanding, as shown by the Trustee, and shall also give written notice to the Borrower, the Issuer and the Credit Provider.

(End of Article II)

### **ARTICLE III**

#### **PURCHASE AND REMARKETING OF BONDS**

##### **Section 3.01. Purchase of Tendered Bonds.**

(a) General Duties of Remarketing Agent or Tender Agent. In performing its duties hereunder, the Remarketing Agent or the Tender Agent, as the case may be, shall act as a conduit and not be considered to be purchasing Bonds or beneficial interests in Bonds for its own account and, in the absence of written notification from the Trustee, shall be entitled to assume that any Bond tendered or deemed tendered to the Tender Agent, or any beneficial interest in any Bond tendered to the Remarketing Agent, for purchase is entitled under the Indenture to be so purchased (excluding Pledged Bonds, Borrower Bonds and Bonds in a Fixed Rate Mode). No acceptance of Bonds by the Tender Agent hereunder, and no acceptance of a direction to tender beneficial interests in Bonds by the Remarketing Agent hereunder, shall effect any merger or discharge of the indebtedness of the Issuer evidenced by the Bonds. The Tender Agent shall accept all Bonds properly tendered to it for purchase, and the Remarketing Agent shall accept all properly given directions to tender beneficial interests in Bonds, in accordance with the provisions of the Bonds as set forth in this Indenture; provided, however, that the Tender Agent shall not accept any Bonds tendered, and the Remarketing Agent shall not accept any directions to tender any beneficial interests in any Bonds, (i) during an Adjustable Rate Period or the Fixed Rate Period (other than those Bonds deemed tendered as of an Adjustable Rate Conversion Date, an Adjustable Rate Reset Date or the Fixed Rate Conversion Date), or (ii) if at the time of the tender the principal of the Bonds shall have been accelerated pursuant to Section 7.02 of this Indenture.

(b) Funds for Purchase Price Held by Trustee or Tender Agent. The Remarketing Agent shall transfer all moneys delivered to it for the purchase of beneficial interests in Bonds to the Trustee for deposit (and the Trustee shall hold any moneys delivered to it) in an account maintained by the Trustee -- designated as the Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds (Spalding University, Inc. Project), Series 2008 - Remarketing Account (the "Remarketing Account") -- which monies shall be held without investment, solely for the benefit of the persons delivering such moneys, until the beneficial interests in such Bonds purchased with such moneys have been designated by the Trustee as being held for the account of such persons. The Trustee shall apply the moneys so deposited with it to pay the purchase price of the beneficial interests in Bonds tendered for purchase.

In the event that the Bonds are no longer held in a book-entry only system, the Tender Agent shall establish a special trust fund designated as the "Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds (Spalding University, Inc. Project), Series 2008 - Purchase Fund" (the "Purchase Fund"). The Tender Agent shall hold all Bonds delivered to it in trust for the benefit of the respective Owners of Bonds delivering such Bonds until moneys representing the purchase price of such Bonds have been delivered to or for the account of such Owners of Bonds. The Tender Agent shall hold all moneys delivered to it for the purchase of Bonds in the Purchase Fund in trust and without investment, solely for the benefit of the persons delivering such moneys, until the Bonds purchased with such moneys have been delivered to or for the account of the persons purchasing such beneficial interests. The Tender Agent shall withdraw sufficient funds from the Purchase



Fund to pay the purchase price of Bonds tendered for purchase as the same becomes due and payable.

(c) Optional and Mandatory Tenders. While the Bonds are held in a book-entry only system, beneficial interests in the Bonds may be optionally tendered (or, if the Bonds are no longer held in a book-entry only system, the Bonds may be optionally tendered) for purchase during a Daily Rate Period or a Weekly Rate Period, and shall be deemed tendered for purchase on each Conversion Date, on each Adjustable Rate Reset Date, on the date of delivery of an Alternate Credit Facility and on the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to the Expiration of the Term of the Credit Facility (but in no event less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility), as set forth in Section 2.02 hereof and the form of Bond set forth in Exhibit A hereto.

In the case of any mandatory tender occasioned by the Expiration of the Term of the Credit Facility or the delivery of an Alternate Credit Facility, the existing Credit Facility shall be drawn upon for payment of the purchase price of tendered Bonds on the date of purchase, and the Trustee shall not surrender the existing Credit Facility unless and until such drawing for the purchase price has been honored under the existing Credit Facility.

#### Section 3.02. Remarketing of Tendered Bonds; Payment of Purchase Price.

(a) General. Subject to subsection (h) of this Section 3.02, the Remarketing Agent shall use its best efforts to remarket (i) optionally tendered beneficial interests in Bonds, of which it has received notice of tender from a beneficial owner, (ii) optionally tendered Bonds, of which it has received notice of tender from the Tender Agent pursuant to subsection (b) of this Section 3.02, or (iii) mandatorily tendered beneficial interests in Bonds (if the Bonds are held in a book-entry only system) or Bonds (if the Bonds are no longer held in a book-entry only system), in each case at a price equal to 100% of the principal amount thereof plus accrued interest to the purchase date.

(b) Notices Regarding Optional Tenders. Upon receipt of a written notice of an optional tender of beneficial interest in Bonds or of an optional tender of Bonds, in each case conforming to the requirements in Section 2.02 hereof and the form of Bond set forth in Exhibit A attached hereto, the Remarketing Agent or the Tender Agent, as applicable, shall notify the Trustee and the Remarketing Agent (if applicable) of the principal amount of Bonds (or beneficial interests therein) tendered and the date fixed for purchase, which date (i) shall be a Business Day (and may be the date of receipt of such notice, if such notice is received by the Remarketing Agent or the Tender Agent prior to 9:00 a.m. New York City time) during a Daily Rate Period, and (ii) shall be a Business Day not less than seven days from the date of receipt of such notice by the Tender Agent or the Remarketing Agent, as the case may be, during a Weekly Rate Period. Upon receipt of such notice from the Remarketing Agent or the Tender Agent, as appropriate, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Borrower and the Credit Provider.

Bonds in an Adjustable Rate Mode are not subject to optional tender for purchase.

(c) Tenders During Daily Rate Mode. By 11:30 a.m., New York City time, on each purchase date (whether optional or mandatory) during a Daily Rate Period, the Remarketing Agent shall give notice to the Trustee of the principal amount of such Bonds (or beneficial interest therein) remarketed, and, if the Bonds are no longer held in a book-entry only system, the names, addresses and taxpayer identification numbers of the purchasers and the denominations in which the Bonds are to be issued to each purchaser. If less than all of the Bonds (or beneficial interests therein) to be tendered on such purchase date have been remarketed, the Remarketing Agent shall, in addition, notify the Trustee by 11:30 a.m., New York City time, on each purchase date (whether optional or mandatory) during a Daily Rate Period of the principal amount of Bonds (or beneficial interests therein) which have not been remarketed and the amount of accrued interest to be paid on such Bonds (or beneficial interests therein) on such purchase date. Upon receipt of such notices from the Remarketing Agent, the Trustee shall immediately cause the same information contained in such notices to be delivered to the Tender Agent, the Borrower and the Credit Provider. Purchasers of Bonds (or beneficial interests therein) which have been remarketed shall be required to deliver the purchase price thereof directly to the Remarketing Agent (if the Bonds are held in a book-entry only system) or to the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, not later than 11:30 a.m., New York City time, on each purchase date (whether optional or mandatory) during a Daily Rate Period. By 11:30 a.m., New York City time, on each purchase date (whether optional or mandatory) during a Daily Rate Period, the Remarketing Agent (if the Bonds are held in a book-entry system) or the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, shall notify the Trustee and the Remarketing Agent (if applicable) of any Bonds (or beneficial interests therein) which have been remarketed for which payment has not been received. Upon receipt of such notice from the Remarketing Agent or the Tender Agent, as appropriate, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Borrower and the Credit Provider.

(d) Tenders During Weekly Rate Mode or Adjustable Rate Mode. By 3:00 p.m., New York City time, on the Business Day next preceding each purchase date (whether optional or mandatory) during a Weekly Rate Period or an Adjustable Rate Period, the Remarketing Agent shall give notice to the Trustee of the principal amount of such Bonds (or beneficial interests therein) remarketed, and, if the Bonds are no longer held in a book-entry only system, the names, addresses and taxpayer identification numbers of the purchasers and the denominations in which the Bonds are to be issued to each purchaser. If less than all of the Bonds (or beneficial interests therein) to be tendered on such purchase date have been remarketed, the Remarketing Agent shall, in addition, notify the Trustee by 3:00 p.m., New York City time, on the Business Day next preceding the purchase date (whether optional or mandatory), of the principal amount of Bonds (or beneficial interests therein) which have not been remarketed and the amount of accrued interest to be paid on such Bonds (or beneficial interests therein) on such purchase date. Upon receipt of such notices from the Remarketing Agent, the Trustee shall immediately cause the same information contained in such notices to be delivered to the Tender Agent, the Borrower and the Credit Provider. Purchasers of Bonds (or beneficial interests therein) which have been remarketed shall be required to deliver the purchase price thereof directly to the Remarketing Agent (if the Bonds are held in a book-entry only system) or to the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, for deposit in the Purchase Fund not later than 10:00 a.m., New York City time, on each purchase date (whether optional or mandatory) during a Weekly Rate Period or an

Adjustable Rate Period. By 10:30 a.m., New York City time, on each purchase date (whether optional or mandatory) during a Weekly Rate Period or an Adjustable Rate Period, the Remarketing Agent (if the Bonds are held in a book-entry only system) or the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, shall notify the Trustee and the Remarketing Agent (if applicable) of any Bonds (or beneficial interests therein) which have been remarketed for which payment has not been received. Upon receipt of such notice from the Remarketing Agent or the Tender Agent, as appropriate, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Borrower and the Credit Provider.

Bonds in an Adjustable Rate Mode are not subject to optional tender for purchase.

(e) Draws Upon Credit Facility; Borrower Moneys. With respect to any Bonds then secured by a Credit Facility (and excluding Pledged Bonds, Borrower Bonds and Bonds in a Fixed Rate Mode), prior to 12:00 noon, New York City time, on each purchase date (whether optional or mandatory) the Trustee shall, upon receipt of the notices described in subsection (c) or (d) above, as appropriate, draw upon the Credit Facility securing such Bonds in an amount equal to the purchase price of (i) any tendered Bonds (or beneficial interests therein) not remarketed, and (ii) any tendered Bonds (or beneficial interests therein) remarketed and for which payment has not been received. The Credit Provider shall cause funds so drawn to be wired to the Trustee or the Tender Agent, as appropriate, not later than 3:00 p.m., New York City time, on the purchase date. In the event that the Credit Provider does not cause funds so drawn to be deposited with the Trustee or the Tender Agent, as appropriate, by 3:15 p.m., New York City time, on each purchase date (whether optional or mandatory), the Trustee shall retain (if the Bonds are held in a book-entry only system), or the Tender Agent (if the Bonds are no longer held in a book-entry only system) shall receive from the Borrower, as the case may be, moneys deposited by the Borrower pursuant to Section 4.2 of the Loan Agreement in an amount sufficient to pay the purchase price of: (i) any tendered Bonds (or beneficial interests therein) not remarketed; and (ii) any tendered Bonds (or beneficial interests therein) remarketed and for which payment has not been received. The Trustee or the Tender Agent, as appropriate, shall deposit such moneys of the Borrower in a separate account, apart from, and not commingled with, any other moneys held by the Trustee or the Tender Agent, as appropriate. The Trustee will immediately notify the Bondholders of any failure by the Credit Provider to honor a properly presented draw request for payment of purchase price for any Bonds optionally or mandatorily tendered for purchase.

(f) Payment By Credit Provider. The Trustee shall, to the extent it has drawn funds under the Credit Facility for the purchase of Bonds, authorize direct payment by the Credit Provider to the Trustee or the Tender Agent, as appropriate.

(g) Form of Notices. Notices pursuant to this Section shall be by telephone or telecopy (receipt confirmed in either case by telephone), or by telegram, promptly confirmed in writing, except that any drawing under the Credit Facility shall be in accordance with the terms thereof.

(h) Limitations on Remarketing. Anything in this Indenture to the contrary notwithstanding, there shall be no obligation of the Remarketing Agent to remarket Bonds (or beneficial interests therein) (a) if there shall have occurred and be continuing an Event of Default

under this Indenture, (b) if there is no Credit Facility in effect that secures Bonds in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode, (c) if the Borrower fails to comply with its continuing disclosure obligations, if any, or (d) upon a Fixed Rate Conversion. In the event Bonds are required to be tendered for purchase on the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to either the Expiration of the Term of the Credit Facility or the delivery of an Alternate Credit Facility, as described in Section 2.02(H) hereof, such Bonds shall not be remarketed unless and until the term of the then existing Credit Facility has been extended or renewed or an effective Alternate Letter of Credit has been delivered to the Trustee. In no event shall Pledged Bonds or Borrower Bonds be remarketed unless the Credit Provider has reinstated the amount available to be drawn under the Credit Facility to an amount sufficient to pay principal of, interest on and purchase price for such Bonds. The Credit Provider shall notify the Trustee in writing, and the Trustee shall notify the Remarketing Agent and the Tender Agent, of any reinstatement of the Credit Facility in the case where Pledged Bonds exist and the Borrower directly reimburses the Credit Provider pursuant to the Reimbursement Agreement for amounts previously drawn under the Credit Facility to pay the purchase price for such Bonds. In no event shall Bonds be remarketed by the Remarketing Agent to the Borrower, the Issuer or any guarantor of the Bonds (excluding the Credit Provider) or to any person who is an “insider” of the Borrower, the Issuer or any such guarantor within the meaning of the United States Bankruptcy Code.

(i) Tenders Occurring After Notice of Mandatory Tender Date. Any Bond (or beneficial interest therein) optionally tendered for purchase after the date on which the Trustee has notified the Bondholders of a mandatory tender date in accordance with the provisions of Section 2.08(c) hereof shall not be remarketed unless the purchaser has been notified by the Remarketing Agent (if the Bonds are held in a book-entry only system) or the Trustee (if the Bonds are no longer held in a book-entry only system) of the required mandatory tender for purchase. Any such notice shall contain the same provisions as the notice required to be delivered by the Trustee pursuant to Section 2.08(c) of this Indenture. Any purchaser so notified must deliver a notice to the Trustee and the Remarketing Agent (if the Bonds are held in a book-entry only system) or the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, stating that such purchaser will tender its Bonds (or its beneficial interest therein) for purchase on the related mandatory tender date.

Section 3.03. Funds for Purchase Price of Bonds. On the date Bonds (or beneficial interests therein) are to be purchased pursuant to the provisions of this Indenture, the Trustee (if the Bonds are held in a book-entry only system) or the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, shall deliver the purchase price to the tendering Bondholder (or the tendering Beneficial Owner) only from the funds listed below, in the order of priority indicated:

(a) the proceeds of the sale of such Bonds (or beneficial interests therein) which have been remarketed by the Remarketing Agent to any person--other than the Borrower, the Issuer or any guarantor of the Bonds (excluding the Credit Provider) or to any person who is an “insider” of the Borrower, the Issuer or any such guarantor within the meaning of the United States Bankruptcy Code--prior to the time such Bonds (or beneficial interests therein) are to be purchased, and, if the Bonds are held in a book-entry only system, delivered to the Trustee, or, if

the Bonds are no longer held in a book-entry only system, delivered to the Tender Agent, on the purchase date;

(b) moneys drawn under the Credit Facility; and

(c) moneys deposited by the Borrower with the Trustee pursuant to the Loan Agreement and retained by the Trustee (if the Bonds are held in a book-entry only system), or deposited by the Borrower with the Tender Agent (if the Bonds are no longer held in a book-entry only system), as the case may be, which moneys shall be segregated by the Trustee or the Tender Agent, as appropriate, in a separate account apart from, and not commingled with, other moneys held by the Trustee or the Tender Agent, as appropriate.

Section 3.04. Delivery of Purchased Bonds. If the Bonds are held in a book-entry only system, the Trustee shall designate beneficial interests in Bonds purchased with moneys described in Section 3.03(a) hereof as being held for the account of such purchasers. Beneficial interests purchased with moneys described in Section 3.03(b) hereof shall be designated by the Trustee as being held for the account of the Borrower indicating their status as Pledged Bonds, and disposed of pursuant to Section 3.06 hereof. Beneficial interests in Bonds purchased with moneys described in Section 3.03(c) hereof shall be designated by the Trustee as being held for the account of the Borrower indicating their status as Borrower Bonds.

If the Bonds are no longer held in a book-entry only system, the Tender Agent shall make available by 12:00 noon, New York City time, on a purchase date (whether optional or mandatory), at its Principal Office, Bonds purchased with moneys described in Section 3.03(a) hereof for receipt by the purchaser thereof. Bonds purchased with moneys described in Section 3.03(a) hereof shall be registered in the manner directed by the Trustee and delivered to the Trustee for redelivery to the purchasers thereof. Bonds purchased with moneys described in Section 3.03(b) hereof shall be delivered by the Tender Agent to the Trustee, and registered by the Trustee in the name of the Borrower indicating their status as Pledged Bonds, and disposed of pursuant to Section 3.06 hereof. Bonds purchased with moneys described in Section 3.03(c) hereof shall be registered in the name of an Borrower indicating their status as Borrower Bonds and delivered to the Borrower.

Section 3.05. Delivery of Proceeds of Sale of Purchased Bonds. Except in the case of the sale of Pledged Bonds, the proceeds of the sale of any Bonds (or beneficial interests therein) held by the Trustee or on deposit in the Purchase Fund, as appropriate, to the extent not required to pay the purchase price thereof, shall be paid to or upon the order of the Borrower; and the proceeds of the sale of Pledged Bonds (or beneficial interests therein) shall be paid to or upon the order of the Credit Provider.

Section 3.06. Custody Account.

(a) Upon the creation of any Pledged Bonds, the Trustee shall establish a separate and segregated trust account for the Bonds to be designated the “Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds (Spalding University, Inc. Project), Series 2008 - Custody Account” (the “Custody Account”). Moneys and Pledged Bonds (if Bonds are no longer held in a book-entry system) shall be transferred into the Custody Account in accordance with the terms of this Section.

(b) If a beneficial interest in a Bond is purchased by the Trustee pursuant to Section 3.01 hereof with moneys drawn under the Credit Facility pursuant to Section 3.03(b) hereof, that beneficial interest shall be designated on the books of the Trustee as a Pledged Bond until released as herein provided, shall be designated as being held in the Custody Account, and shall be released only upon receipt by the Trustee of an amount equal to the principal amount thereof plus accrued interest, if any, thereon to the date of purchase, and upon reinstatement in full of the Credit Facility. Provided there is no Event of Default under this Indenture, the Remarketing Agent shall use its best efforts to remarket Pledged Bonds. If the Remarketing Agent remarkets any Pledged Bond, the Remarketing Agent shall give a notice conforming to the notice described in the first sentence of Section 3.02(c) hereof, and shall direct the purchaser of such Pledged Bond to transfer, by 12:00 noon, New York City time, on the purchase date, the purchase price of such remarketed Pledged Bond to the Trustee for deposit into the Custody Account. The Trustee shall immediately notify the Credit Provider of the receipt of the purchase price for such Pledged Bond, and upon receipt by the Trustee of such purchase price, and reinstatement in full of the Credit Facility, such Pledged Bond shall be considered released from the pledge of the Credit Provider. The Trustee shall transfer such purchase price to the Credit Provider upon receipt thereof, and give all required notices, in accordance with the terms of the Credit Facility. The Trustee shall designate beneficial interests in remarketed Pledged Bonds to the purchasers thereof in accordance with Section 3.04 hereof.

If the Bonds are no longer held in a book-entry only system and a Bond is purchased by the Tender Agent pursuant to Section 3.01 hereof with moneys drawn under the Credit Facility pursuant to Section 3.03(b) hereof, that Bond shall be delivered to and held by the Trustee, shall be registered in the name of the Borrower (and shall thereafter constitute a Pledged Bond until released as herein provided), shall be deposited in the Custody Account, and shall be released only upon receipt by the Trustee of an amount equal to the principal amount thereof plus accrued interest, if any, thereon to the date of purchase, and upon reinstatement in full of the Credit Facility. Provided there is no Event of Default under this Indenture, the Remarketing Agent shall use its best efforts to remarket Pledged Bonds. If the Remarketing Agent remarkets any Pledged Bond, the Remarketing Agent shall give a notice conforming to the notice described in the first sentence of Section 3.02(c) hereof, and shall direct the purchaser of such Pledged Bond to transfer, by 12:00 noon, New York City time, on the purchase date, the purchase price of such remarketed Pledged Bond to the Trustee for deposit into the Custody Account. The Trustee shall transfer such purchase price to the Credit Provider upon receipt thereof, and give all required notices, in accordance with the terms of the Credit Facility. The Trustee shall deliver the remarketed Pledged Bonds to the purchasers thereof in accordance with Section 3.04 hereof.

(c) To the extent amounts are due and owing to the Credit Provider under the Reimbursement Agreement, the proceeds of the remarketing of Pledged Bonds shall be deposited into the Custody Account and held by the Trustee for the account of, and in trust solely for, the Credit Provider, shall not be commingled with any other moneys held by the Trustee, and shall be paid over immediately to the Credit Provider.

(d) On each Interest Payment Date prior to the release of Pledged Bonds from the Custody Account, the Trustee shall (i) if the Bonds are held in a book-entry only system, notify DTC that it has waived payment on such Interest Payment Date with respect to such Pledged Bonds, and that the Trustee shall be paying the Credit Provider with respect thereto directly from the Revenue Account of the Bond Fund, and (ii) whether or not the Bonds are held

in a book-entry only system, apply moneys on deposit in the Revenue Account of the Bond Fund to the payment of the principal of and interest on such Pledged Bonds through direct transfer thereof to the Credit Provider (receipt of which payment shall promptly be acknowledged by the Credit Provider in writing by facsimile transmission to the Trustee). Under no circumstances shall the Trustee either (i) draw on the Credit Facility or use moneys in the Credit Facility Account of the Bond Fund for purposes of making any payment with respect to Pledged Bonds or Borrower Bonds, or (ii) apply moneys on deposit in the Revenue Account of the Bond Fund for transfer to DTC in payment of any Pledged Bond or Borrower Bond.

(e) If, on any date prior to the release of Pledged Bonds from the Custody Account, all Bonds are called for redemption pursuant to Article II hereof, or the Trustee declares an acceleration of the Bonds pursuant to Section 7.02 hereof, such Pledged Bonds shall be deemed to have been paid, and shall thereupon be cancelled.

(f) It is recognized and agreed by the Remarketing Agent and the Trustee that each Pledged Bond is held for the benefit of the Credit Provider pursuant to the terms of the Reimbursement Agreement.

Section 3.07. Special Rate Resetting. If any Bonds constitute Pledged Bonds or Borrower Bonds due to a failure in remarketing such Bonds on a mandatory tender date, the Remarketing Agent shall be entitled to determine a new Daily Rate, Weekly Rate or Adjustable Rate with respect to such Bonds, as appropriate (under the conditions and subject to the limitations provided above), effective on such date as the Remarketing Agent is able to remarket such Pledged Bonds or Borrower Bonds in whole. Such new rate with respect to such Bonds shall be established by the Remarketing Agent in its sole judgment having due regard for prevailing financial market conditions at the lowest rate which will permit the Pledged Bonds or Borrower Bonds to be sold at a price of par plus accrued interest to such delivery date, but in any event such new rate with respect to such Bonds shall not be in excess of the Maximum Rate. The determination of a new Daily Rate, Weekly Rate or Adjustable Rate with respect to such Bonds, as appropriate, by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Credit Provider, the Tender Agent and the Bondholders.

(End of Article III)

## **ARTICLE IV GENERAL PROVISIONS**

### **Section 4.01. Authorization for Indenture; Indenture to Constitute Contract.**

This Indenture is entered into pursuant to the Act and the Bond Ordinance. In consideration of the purchase of the Bonds by the Bond Owners, the provisions of this Indenture shall be part of the contract of the Issuer with the Owners of the Bonds, and shall be deemed to be and shall constitute a contract among the Issuer, the Trustee and the Bond Owners. The provisions hereof are covenants and agreements with such Bond Owners, which the Issuer hereby determines to be necessary and desirable for the security and payment of the Bonds.

### **Section 4.02. Payment of Principal, Premium and Interest.**

The Issuer covenants that it will duly and punctually pay or cause to be paid the principal of, premium, if any, and interest on the Bonds issued under this Indenture at the place, on the dates and in the manner provided herein and therein according to the true intent and meaning hereof and thereof, but solely from the Trust Estate established under this Indenture.

### **Section 4.03. Performance of Covenants; Issuer Warranties.**

The Issuer covenants that it will faithfully comply with the stipulations and provisions required to be performed by it and contained in this Indenture, or in any of its proceedings pertaining hereto; provided, however, that except for the covenant of the Issuer set forth in Section 4.02 hereof relating to payment of the Bonds, the Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof until it shall have been requested in writing to do so by the Borrower or by the Trustee, or shall have received the instrument to be executed and shall have received from the party requesting such execution assurance satisfactory to the Issuer that the Issuer will be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument. The Issuer warrants that it is duly authorized under the laws of the State, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to execute this Indenture and to assign the Trust Estate, which hereby is assigned in the manner and to the extent herein set forth; that all actions on its part for the issuance of the Bonds and the execution and delivery of this Indenture have been duly and effectively taken; and that the Bonds are and will be valid and binding limited obligations of the Issuer except that the enforceability of the Bonds may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and by the exercise of judicial discretion in accordance with general principles of equity.

Anything contained in this Indenture to the contrary notwithstanding, it is hereby understood and agreed that all of the representations and warranties or covenants of the Issuer contained in this Indenture are subject to the limitations set forth in Section 2.04 hereof and are not intended to and do not create a general obligation of the Issuer. The Bonds are issued pursuant to the Act and do not and shall never become general obligations of the Issuer, but are limited obligations payable solely and only from the Trust Estate, and as authorized by the Act and provided herein. No covenant or agreement contained in the Bonds, in this Indenture or in any other agreement referred in this Indenture shall be deemed to be the covenant or agreement of any trustee, officer, member, agent or employee of the Issuer in his or her individual capacity, and neither such persons nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.



Section 4.04. Instruments of Further Assurance. The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee, the Credit Provider or the Borrower reasonably may require for the better and more effectual assignment to the Trustee of the Trust Estate to the payment of the principal of, premium, if any, and interest on the Bonds. The Issuer further covenants that it will not create or suffer to be created any lien, encumbrance or charge upon its interest in the Trust Estate, except the lien and charge granted hereby.

Section 4.05. Recordation and Maintenance of Lien. The Trustee agrees that at the direction and expense of the Borrower it will record and file any of the Loan Agreement, this Indenture and any financing statements and all supplements thereto, and such other instruments (including, but not limited to, continuation statements) as may be required from time to time by the Issuer, the Credit Provider or the Borrower to be recorded or filed, in such manner and in such places as from time to time may be required by law in order fully to preserve and protect the security of the Owners of the Bonds and the Credit Provider, and the rights of the Trustee hereunder.

The Issuer shall cooperate in such filings and will sign such continuation statements and other documents presented to it as requested by the Borrower or the Trustee.

Section 4.06. Registration of Bonds; Trustee Appointed Bond Registrar; Persons Treated as Owners.

(a) Registration. The Trustee is hereby appointed as registrar of the Bonds and as such shall maintain the Registration Books as provided by this Indenture. The Registration Books shall note any Pledged Bond and Borrower Bond and shall reflect the information required to be provided by Bond Owners in connection with the transfer of Bonds. At reasonable times and under reasonable regulations established by the Trustee, the Registration Books may be inspected and copied by the Borrower, the Issuer, the Credit Provider, the Tender Agent, the Remarketing Agent or the Owners (or designated representatives thereof) of at least 25% in aggregate principal amount of Bonds then Outstanding.

(b) Transfer and Exchange. The ownership of a Bond may be transferred (in the amount of any Authorized Denomination; provided, that any portion thereof retained is itself in an Authorized Denomination) only upon surrender thereof at the designated corporate trust operations office of the Trustee or, in the case of tenders pursuant to Article II hereof, at the Principal Office of the Tender Agent (as agent of the Trustee), accompanied by an assignment, duly executed by the Owner of such Bond or its duly authorized attorney-in-fact, in such form as shall be satisfactory to the Trustee or the Tender Agent, as the case may be, along with the address and social security number or federal employer identification number of such transferee (or, if registration is to be made in the name of multiple individuals, of all such transferees) and, if such transferee is a trust, the name and address of the trustee(s) and the date of the trust of the proposed transferee. Upon the due presentation of any Bond for transfer and on request of the Trustee, the Issuer shall execute in the name of the transferee, and the Trustee or the Tender Agent (as agent of the Trustee) shall authenticate and deliver, a new fully registered Bond or Bonds, in any Authorized Denomination, in an aggregate principal amount equal to the unmatured and unredeemed principal amount of such transferred fully registered Bond, and

bearing interest at the same rate and in the same Mode, and maturing on the same date, as such transferred Bond.

Bonds may be exchanged at the designated corporate trust operations office of the Trustee for a like aggregate principal amount of Bonds of Authorized Denominations and of the same Mode. All Bonds surrendered to the Trustee for transfer or exchange pursuant to this Section 4.06 shall be cancelled by the Trustee and shall not be redelivered. Neither the Issuer nor the Trustee shall be required to make any such transfer or exchange of any Bond during the three Business Days immediately preceding the selection of the Bonds for redemption or, with respect to a Bond, after such Bond or any portion thereof has been selected for redemption. Notwithstanding the foregoing provisions, the Trustee or the Tender Agent (as agent of the Trustee) shall authenticate and make available for receipt by the purchaser or purchasers of any Bond tendered or deemed to be tendered in accordance with the provisions of the form of Bond contained in Exhibit A attached hereto, against payment therefor, a new fully registered Bond or Bonds, in any Authorized Denomination, in an aggregate principal amount equal to the principal amount of the Bond so deemed to be tendered and in the same Mode.

The Trustee shall attach to each Bond issued in transfer or exchange for a Bond (or a portion of a Bond) called for redemption or mandatory tender a copy of the notice thereof.

(c) Charges. In all cases of the transfer of a Bond, the Trustee shall register at the earliest practicable time, on the Registration Books, such Bond in accordance with the provisions of this Indenture. The Issuer, the Tender Agent or the Trustee may make a charge to the Bond Owner for every such transfer and every exchange of a Bond sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange, and may demand that such charge be paid before any new Bond is delivered.

(d) Ownership. As to any Bond, the person in whose name the ownership of such Bond shall be registered on the Registration Books shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of, premium, if any, and interest on any such Bond shall be made only to or upon the order of the Owner thereof or its legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the premium, if any, and interest thereon, to the extent of the sum or sums so paid.

(e) Beneficial Interests. While the Bonds are held in a book-entry only system, it shall be the duty of the Trustee to effect transfers and exchanges of beneficial interests in the Bonds in accordance with the foregoing provisions.

Section 4.07. Cancellation. All Bonds which have been paid at maturity or redeemed prior to maturity shall not be reissued but shall be cancelled by the Trustee. All Bonds which are cancelled by the Trustee shall be disposed of by the Trustee. Upon receipt of a written request from the Issuer and/or the Credit Provider, a certificate of the disposition thereof shall be furnished promptly to the Issuer and the Credit Provider; provided, however, that if the Issuer or the Credit Provider shall so direct the Trustee, the Trustee shall forward the cancelled Bonds to the Issuer or the Credit Provider, as the case may be (and if so requested by both the Issuer and the Credit Provider, then to the Issuer with written notice thereof to the Credit Provider).

Section 4.08. Non-presentment of Bonds. If any check or draft representing payment of interest, principal, premium or purchase price on any Bond is returned to the Trustee or the Tender Agent or is not presented for payment by the payee thereof, or any Bond is not presented for payment of principal or premium at the maturity or redemption date, or purchase price at the purchase date, if amounts drawn under a Credit Facility or the proceeds of a remarketing of such Bond by the Remarketing Agent, or, during a Daily Rate Period, a Weekly Rate Period, an Adjustable Rate Period or the Fixed Rate Period, in accordance with Article VI hereof, funds (which funds shall be Seasoned Funds with respect to any Bond in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode) and/or Federal Securities (which Federal Securities shall have been purchased with Seasoned Funds with respect to any Bond in an Adjustable Rate Mode) sufficient to pay such interest, or such principal and premium or purchase price, as is applicable, shall have been made available to the Trustee or the Tender Agent for the benefit of the Owner of the applicable Bond in accordance with Article VI hereof, all liability of the Issuer to the Owner of such Bond for such interest or such principal and premium or purchase price shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee or the Tender Agent to hold such moneys and/or Federal Securities, without investing or reinvesting the same and without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on such Owner's part under this Indenture or on, or with respect to, such Bond, and thereafter such Bond shall no longer be considered to be Outstanding. The Trustee's or Tender Agent's obligation to hold such moneys and/or Federal Securities shall continue for a period equal to five years following the date on which the principal of all Bonds has become due, whether at maturity, or at the date fixed for redemption thereof, or otherwise, at which time the Trustee or the Tender Agent, upon payment of all fees and expenses due and owing to it and receipt of indemnity satisfactory to it, shall surrender any remaining funds so held to the Credit Provider upon its written direction or, if the Credit Provider is owed no moneys under the Reimbursement Agreement (as evidenced by written notice thereof given to the Trustee and the Tender Agent by the Credit Provider), to the Borrower upon its written direction. Following such surrender, any claim under this Indenture by the Owner of any Bond of whatever nature shall be made only upon the Borrower.

The provisions of this Section 4.08 shall be subject to all applicable escheat and unclaimed property laws.

Section 4.09. Rights under Certain Agreements and Credit Facility. This Indenture, the Loan Agreement, the documents executed by the Borrower in connection herewith and therewith (including, but not limited to, the Tax Certificate), and the Credit Facility, duly executed counterparts or originals of which have been filed with the Trustee, set forth the covenants and the obligations of the Issuer, the Borrower, the Credit Provider and the Trustee. Reference is hereby made to such documents for detailed statements of the covenants and obligations set forth therein. The Issuer agrees, subject to the provisions of Section 8.13 hereof, that the Trustee, for and on behalf of the Bond Owners, in its name or, to the extent permitted by law, in the name of the Issuer, may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement and such documents.

Section 4.10. Return of Credit Facility. Upon the Expiration of the Term of the Credit Facility or the delivery of an effective Alternate Credit Facility, the Trustee shall immediately return the existing Credit Facility to the Credit Provider in accordance with the

terms thereof; provided, that under no circumstances shall the Trustee return the existing Credit Facility unless and until the Credit Provider has honored all draws under such existing Credit Facility occasioned by a mandatory tender due to either the Expiration of the Term of the Credit Facility or the delivery of the Alternate Credit Facility.

Section 4.11. Legal Existence of Issuer. The Issuer covenants that it will take all actions within its control to maintain its legal existence and will comply with all valid acts, rules, regulations and orders of any legislative, executive, judicial or administrative body applicable to the Issuer in connection with the Bonds.

Section 4.12. Tax-Exempt Status of Bonds. The Issuer and the Trustee each covenant not to take any action within their respective control that would, to their respective actual knowledge, adversely affect the exclusion from gross income of interest to be paid on the Bonds, for purposes of federal income taxation.

Section 4.13. Diminution of, or Encumbrance on, Trust Estate. The Issuer covenants not to sell, transfer, assign, pledge, release, encumber or otherwise diminish or dispose of, directly or indirectly, by merger or otherwise, or cause or suffer the same to occur, or create or allow to be created or to exist any lien upon, all or any part of the Trust Estate, except as expressly permitted by this Indenture.

Section 4.14. Books, Records and Accounts. The Trustee agrees to keep proper books for the registration of, and transfer of ownership of, each Bond, and proper books, records and accounts in which complete and correct entries shall be made of all transactions relating to the receipt, disbursement, investment, allocation and application of the proceeds received from the sale of the Bonds, the revenues received from the Loan Agreement, the documents executed by the Borrower in connection therewith, the Credit Facility, the funds and accounts created pursuant to this Indenture, and all other moneys held by the Trustee hereunder. The Trustee shall, during regular business hours and upon reasonable prior notice, make such books, records and accounts available for inspection by the Issuer, the Borrower, the Credit Provider and the Bond Owners subject to the provisions of 4.06(a) hereof.

Section 4.15. Temporary Bonds. Until definitive Bonds are ready for delivery, there may be executed, and, upon written request of the Issuer, the Trustee or the Tender Agent shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same limitations and conditions, temporary printed, engraved, lithographed or typewritten registered Bonds (without coupons), in any Authorized Denomination, substantially of the tenor hereinabove set forth for definitive Bonds, and with such omissions, insertions and variations as may be appropriate. If temporary Bonds shall be issued, as soon as is practicable the Issuer shall cause the definitive Bonds to be prepared and to be executed and deposited with the Trustee, and the Trustee or the Tender Agent, upon presentation to it at its designated corporate trust office or Principal Office, respectively, of any temporary Bond, shall cancel the same and authenticate and deliver in exchange therefor at the required location, without charge to the Owner thereof, a definitive Bond or Bonds of an equal aggregate principal amount and bearing interest at the same rate and in the same Mode as the temporary Bond or Bonds so surrendered. Until so exchanged the temporary Bonds shall be entitled in all respects to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

#### Section 4.16. Mutilated, Lost, Stolen or Destroyed Bonds.

(a) If any Bond is mutilated, lost, stolen or destroyed, the Trustee, upon written request, shall authenticate a new Bond, dated as provided in Article II hereof, of the same denomination and bearing interest at the same rate and in the same Mode as the Bond mutilated, lost, stolen or destroyed; provided, however, that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and, in the case of any lost, stolen or destroyed Bond, there shall first be furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity covering the Trustee, the Credit Provider, the Borrower, and the Issuer satisfactory to the Trustee, and thereafter such purported lost, stolen or destroyed Bond shall not be deemed to be Outstanding hereunder other than for purposes of payment from the proceeds of the indemnity so provided. If any such Bond shall have matured, instead of issuing a duplicate Bond the Issuer, at the direction of the Borrower, may pay the same. The Trustee and the Issuer may charge the Owner of such Bond with their reasonable fees and expenses in connection with the issuance of any such duplicate Bond.

(b) Every substituted Bond issued pursuant to this Section 4.16 shall be entitled to the benefit and security of this Indenture to the extent provided herein. If the Bond alleged to have been lost, stolen or destroyed shall be at any time enforceable by anyone, the Issuer shall pay such solely from the indemnity required above.

(c) All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, lost, stolen or destroyed Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or of investment or other securities without their surrender.

Section 4.17. Notice to Remarketing Agent and Rating Agencies. The Trustee shall provide the Remarketing Agent and each Rating Agency then rating the Bonds, if the Bonds are then rated, with prompt written notice following the effective date of (a) the appointment of any successor Trustee, Tender Agent or Remarketing Agent, (b) any change in the identity of the Credit Provider, (c) any supplement to, or amendment of, this Indenture or the Loan Agreement, (d) the termination, expiration, extension or amendment of the Credit Facility or an Alternate Credit Facility is delivered, (e) the payment in full of all of the Bonds, (f) the giving of a notice of mandatory tender, defeasance or redemption of the Bonds, (g) the acceleration of the payment of principal of and interest on the Bonds pursuant to the provisions of Section 7.02 hereof, (h) the occurrence of any Conversion Date, (i) the establishment of an Adjustable Rate Period greater than three years, or (j) providing for the payment of all or a portion of the Bonds in accordance with Article VI hereof. Each notice to the Remarketing Agent and the Rating Agencies hereunder shall be directed to the respective addresses provided by the Remarketing Agent and the Rating Agencies.

(End of Article IV)

## **ARTICLE V REVENUES AND FUNDS**

### **Section 5.01. Application of Bond Proceeds; Source of Payment of Bonds.**

(a) Proceeds received from the sale of the Bonds by the Issuer shall be immediately applied to make the Loan to the Borrower and shall be deposited with the Trustee and applied as follows:

(i) \$\_\_\_\_\_ of such proceeds shall be deposited with the Trustee in the "Refunding Account" hereby created for transfer to the Bond Fund established in connection with the outstanding City of Shively, Kentucky Variable Rate Demand Educational Revenue Bonds, Series 2003 to redeem and retire such 2003 Bonds on \_\_\_\_\_, 2008;

(ii) \$\_\_\_\_\_, representing the initial fees of the Credit Provider, shall be deposited in the Construction Fund then immediately transferred to the Credit Provider; and

(iii) The balance of Bond proceeds shall be deposited in the Construction Fund.

(b) Except as otherwise provided in Section 3.03 hereof, the principal and purchase price of, and interest on, any Bonds shall be payable in every case from the proceeds of draws under the Credit Facility securing such Bonds prior to the use of funds from any other source.

**Section 5.02. Creation of Bond Fund.** There is hereby created by the Issuer and established with the Trustee a trust fund to be designated as the "Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds (Spalding University, Inc. Project), Series 2008 - Bond Fund" (the "Bond Fund"). Within the Bond Fund there shall be created by the Issuer and ordered established with the Trustee three trust accounts to be designated the "Revenue Account," the "Seasoned Funds Account" and the "Credit Facility Account."

**Section 5.03. Payments into Bond Fund.** There shall be deposited into the Bond Fund when received: (a) all payments specified in Section 4.1 of the Loan Agreement; (b) all moneys required to be so deposited in connection with any redemption of the Bonds; (c) all revenues derived or received by the Trustee under or with respect to the Credit Facility to pay principal of, premium, if any, and interest on the Bonds when due; (d) any amounts directed to be transferred into the Bond Fund pursuant to any provision of this Indenture or the Loan Agreement; (e) all other moneys when received by the Trustee which are required to be deposited into the Bond Fund or which are accompanied by directions that such moneys are to be paid into the Bond Fund; and (f) any amounts received pursuant to Section 5.3 of the Loan Agreement if the Borrower elects not to replace, repair, rebuild or restore the Project as provided in that Section. Any amounts paid to the Trustee as optional redemption premiums while any Bonds are in the Adjustable Rate Mode, which do not constitute Seasoned Funds when paid or which are not derived from draws under the Credit Facility, shall be held in a separate subaccount of the Seasoned Funds Account and shall not be commingled with any other moneys

held by the Trustee until such time as they constitute Seasoned Funds and are used to pay the optional redemption premium. Any amounts drawn under the Credit Facility shall be held in the Credit Facility Account and shall not be commingled with any other moneys held by the Trustee. Any other amounts received for deposit in the Bond Fund shall be held in the Revenue Account and shall not be commingled with any other moneys held by the Trustee.

Section 5.04. Draws on Credit Facility; Use of Moneys in Bond Fund. On or before 12:00 noon, New York City time, on the Business Day immediately preceding each Interest Payment Date, on the Business Day immediately preceding the first Business Day of each month with respect to any Bond in the Adjustable Rate Mode, or on the Business Day immediately preceding the date upon which Bonds that are secured by the Credit Facility mature or are to be redeemed, the Trustee shall draw on the Credit Facility with respect to Bonds secured by the Credit Facility an amount (a) which shall be sufficient for the purpose of paying the principal, premium (but only if such is permitted by the terms of the Credit Facility) and interest coming due and payable on the Bonds on such Interest Payment Date or such date upon which Bonds mature or are to be redeemed (whether at maturity, upon redemption prior to maturity, or upon acceleration in accordance herewith) and (b) with respect to interest on any Bonds in the Adjustable Rate Mode equal to the interest that has accrued or will accrue on such Bonds during the then current month; provided, however, that the Trustee shall not draw under any Credit Facility with respect to the payment of any Pledged Bond, Borrower Bond or Fixed Rate Bond; and provided further, that no such drawing need be made to the extent that there are moneys on deposit in the Credit Facility Account (representing moneys previously drawn under the Credit Facility, so long as such moneys have not been previously allocated to the payment of principal or interest on Bonds or credited against a prior Credit Facility drawing) that are available to pay the principal, premium, if any (but only if such is permitted by the terms of the Credit Facility), and interest on such Bonds to the extent that the same is due and payable or has accrued in accordance with the foregoing provisions of this Section 5.04. In accordance with the foregoing provisions, on or before 12:00 noon, New York City time, on the Business Day preceding the maturity date, any redemption date or acceleration date of the Bonds secured by the Credit Facility, the Trustee, after taking into account all amounts on deposit with it in the Credit Facility Account (representing moneys previously drawn under the Credit Facility, so long as such moneys have not been previously allocated to the payment of principal or interest on Bonds or credited against a prior Credit Facility drawing) that are available to pay principal of, premium, if any (but only if such is permitted by the terms of the Credit Facility), and interest on such Bonds, shall make a drawing on the Credit Facility with respect to such Bonds in an amount sufficient to pay principal of, premium, if any (but only if such is permitted by the terms of the Credit Facility), and interest on such Bonds. The Credit Provider, in accordance with the terms of the Credit Facility, shall cause funds so drawn to be wired to the Trustee not later than 1:00 p.m., New York City time, on the Interest Payment Date, first Business Day of each month, maturity date, redemption date or acceleration date, as appropriate. All amounts derived by the Trustee with respect to the Credit Facility shall be deposited in the Credit Facility Account of the Bond Fund upon receipt thereof by the Trustee.

Moneys drawn by the Trustee on the Credit Facility pursuant to monthly advance draws under this Section 5.04, with respect to Bonds in an Adjustable Rate Mode, shall be kept separate and apart from other moneys held by the Trustee for the benefit of Bondholders and shall not be subject to any lien of any other party.

Prior to 12:00 noon, New York City time, on the date upon which any Bonds secured by the Credit Facility are to be purchased, the Trustee shall draw on the Credit Facility an amount which, when added to the remarketing proceeds (if any), shall be sufficient for the purpose of paying the purchase price coming due and payable on such Bonds (or beneficial interests therein) on such purchase date; provided, however, that the Trustee shall not draw on any Credit Facility with respect to the payment of any Pledged Bond, Borrower Bond or Fixed Rate Bond. The Credit Provider, in accordance with the terms of the Credit Facility, shall cause funds so drawn to be wired to the Tender Agent (if the Bonds are not held in a book-entry only system) or the Trustee (if the Bonds are held in a book-entry only system) not later than 3:00 p.m., New York City time, on the purchase date. All amounts paid to the Tender Agent or the Trustee with respect to the Credit Facility shall be deposited in the Purchase Fund held by the Tender Agent, or the Remarketing Account maintained by the Trustee.

Moneys derived from the Credit Facility shall be used solely for the payment of the principal or purchase price of, premium, if any (but only if the Credit Facility secures premium payable upon an optional redemption of such Bonds), and interest on the Bonds secured by such Credit Facility (other than Pledged Bonds, Borrower Bonds and Bonds in a Fixed Rate Mode). The payment of any premium on the Bonds in the event of an optional redemption thereof after an Adjustable Rate Conversion Date or an Adjustable Rate Reset Date shall be made from Seasoned Funds or from funds derived from a draw under the Credit Facility if such is permitted by the terms thereof (in each case, if the Bonds are secured by a Credit Facility). The Issuer hereby authorizes and directs the Trustee to withdraw sufficient funds from the Credit Facility Account of the Bond Fund, the Tender Agent to withdraw sufficient funds from the Purchase Fund, and the Trustee to withdraw sufficient funds from the Remarketing Account held by it, to pay the principal or purchase price of, premium, if any, and interest on the Bonds as the same become due and payable; and, in the event of a default under the Credit Facility, or at such time following the final Fixed Rate Conversion Date, to use all moneys then on deposit in the Revenue Account and the Seasoned Funds Account of the Bond Fund to pay principal or purchase price of, and (in the case of moneys held in the Seasoned Funds Account) premium, if any, and interest on, the Bonds; which authorization and direction the Trustee and the Tender Agent hereby accept. Immediately following the honoring of any draw under any Credit Facility, an amount equal to the amount of such draw shall be transferred from the Revenue Account of the Bond Fund, the Purchase Fund, or the Remarketing Account held by the Trustee, to the Credit Provider as reimbursement for such draw; provided, that if the Reimbursement Agreement otherwise sets forth applicable procedures governing the reimbursement of the Credit Provider for amounts drawn under the Credit Facility, then any such procedures shall be utilized prior to the reimbursement procedures set forth herein or in the Loan Agreement. Notwithstanding the deposit of moneys into the Bond Fund and the subsequent reimbursement of the Credit Provider as described in this Section 5.04, the Borrower and the Issuer will have no right, title or interest in or to any moneys deposited into the Bond Fund for the benefit of the Bondholders and such moneys will be held in trust exclusively for the benefit of the Bondholders and will be paid over in accordance with the terms of this Indenture.

If less than all of the Bonds are converted to the Fixed Rate Mode, the Trustee shall establish separate accounts for all moneys relating to the Fixed Rate Bonds, and moneys in such accounts for the Fixed Rate Bonds shall not be co-mingled with any other moneys held by the Trustee (including, in particular, moneys derived from draws on the Credit Facility). Bonds in the Fixed Rate Mode are no longer secured by the Credit Facility and the Trustee shall not



under any circumstances make draws on the Credit Facility in connection with any Fixed Rate Bonds.

With respect to any Bond, all references to “Alternate Credit Facility,” “Credit Provider,” “Credit Facility” and “Reimbursement Agreement” shall be of no effect if (a) no Credit Facility is outstanding and (b) no obligations of the Borrower to the Credit Provider remain outstanding under the Reimbursement Agreement.

Section 5.05. Creation of Construction Fund; Disbursements. There is hereby created and established with the Trustee a trust fund in the name of the Issuer to be designated as the “Louisville/Jefferson County Metro Government Variable Rate Demand Industrial Building Revenue Bonds (Spalding University, Inc. Project), Series 2008 - Construction Fund” (the “Construction Fund”), with two separate accounts to be designated as the “Refunding Account” and the “Expense Account”. Proceeds received by the Issuer upon the sale of the Bonds shall be deposited in the Construction Fund in accordance with Section 5.01(a) hereof. The Issuer hereby authorizes and directs the Trustee to use the moneys in the Construction Fund for payment of the Costs of the Project in accordance with Section 3.3 of the Loan Agreement.

If an Event of Default occurs under the Indenture and the Trustee declares the principal of all Bonds and the interest accrued thereon to be due and payable, no moneys may be paid out of the Construction Fund by the Trustee during the continuance of such an Event of Default, except into the Revenue Account of the Bond Fund as and when necessary for the purposes of (a) paying the Bonds as due as a result of such Event of Default; or (b) reimbursing the Credit Provider for any draw under the Credit Facility to pay such Bonds due as a result of such Event of Default; provided, however, that if such an Event of Default shall be waived and such declaration shall be rescinded by the Trustee or the holders and owners of the Bonds pursuant to the terms of this Indenture, the full amount of any such moneys in the Construction Fund may again be disbursed by the Trustee in accordance with the provisions of the Loan Agreement.

The Trustee shall keep and maintain adequate records pertaining to the Construction Fund and all disbursements therefrom, and after the completion of the filing of a certificate of payment of all costs as provided in Section 5.06 hereof and the Trustee shall file an accounting thereof with the Issuer and the Borrower.

Section 5.06. Completion of Project. The completion of those components of the Project being financed with Bond proceeds, and the payment of all costs and expenses incident thereto, shall be evidenced by the filing with the Trustee of the certificate of the Borrower Representative required by the provisions of Section 3.4 of the Loan Agreement. Any balance remaining in the Construction Fund after the Completion Date (other than any amount retained by the Trustee for costs not then due and payable or the liability for which the Borrower is contesting or disputing) shall be used in accordance with Section 3.4 of the Loan Agreement.

As part of such records, the Trustee shall keep a record of the amount and dates of any disbursements from the Construction Fund requisitioned to pay fees of the Credit Facility and shall report the same in its reports to the Issuer and the Borrower.

Section 5.07. Expense Account.

Moneys deposited in the Expense Account of the Construction Fund pursuant to Section 5.01 hereof shall be disbursed by the Trustee to pay Costs of Issuance. Any moneys remaining in the Expense Account on November 1, 2008 shall be transferred to the Construction Fund.

Section 5.08. Investment of Moneys. Subject to the restrictions hereinafter set forth in this Section, moneys held in the Bond Fund and the Construction Fund shall be invested and reinvested by the Trustee upon oral directions (confirmed in writing) of the Borrower in Qualified Investments, maturing no later than the date on which it is estimated that such moneys will be required to be paid out hereunder; provided that any moneys held in the Credit Facility Account and the Seasoned Funds Account of the Bond Fund shall be invested and reinvested solely in Federal Securities maturing no later than the lesser of 30 days from the date of such investment or the date on which it is estimated that such moneys will be required to be paid out hereunder. Moneys held by the Trustee in the Remarketing Account, and moneys held by the Tender Agent in the Purchase Fund, for the purpose of paying the purchase price of beneficial interests in Bonds tendered or required to be tendered for purchase, shall not be invested by the Trustee or the Tender Agent. All investment instructions hereunder shall be provided orally (confirmed in writing) to the Trustee no later than one Business Day prior to the making of the investment directed therein. The Trustee may make any and all such investments through its own investment department, or through any of its affiliates or subsidiaries. The Trustee shall be entitled to rely on all investment instructions provided by the Borrower hereunder, and shall have no duty to monitor the compliance thereof with the restrictions set forth in this Section. The Trustee shall not be responsible or liable for the performance of any such investments or for keeping the moneys held by it hereunder fully invested at all times. Absent the provision of investment instructions hereunder, the Trustee may, but shall not be obligated to, invest moneys held hereunder in Qualified Investments described in clause (ix) of the definition thereof, which obligations shall mature not more than thirty days after their date of purchase; provided, however, that the Trustee shall notify the Borrower in the event any moneys are so invested or if any moneys are being held uninvested pursuant hereto. Any obligations acquired by the Trustee as a result of investment or reinvestment shall be held by or under the control of the Trustee (except for such investments held in book entry form) and shall be deemed to constitute a part of the Fund or Account from which the moneys used for its purchase were taken. All investment income derived from any Fund or Account (other than the Credit Facility Account) held hereunder shall be deposited in the order listed (a) into the Construction Fund until completion of the components of the Project being financed with Bond proceeds, as evidenced by delivery of the certificate required by the provisions of Section 3.4 of the Loan Agreement, which moneys shall be available for the purposes set forth in Section 5.05 hereof, and (b) into the Bond Fund, which moneys shall be available for the purposes set forth in Section 5.04 hereof (and to the extent so available shall serve as a credit against the amount due from the Borrower under Section 4.1 of the Loan Agreement on the next succeeding Loan payment date). All investment income from amounts on deposit in the Credit Facility Account shall be retained therein.

Although the Issuer and the Borrower each recognize that they may obtain a broker confirmation statement containing comparable information at no additional cost, the Issuer and the Borrower agree that confirmations of Qualified Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

Section 5.09. Moneys Held in Trust. All moneys required to be deposited with or paid to the Trustee for the account of any Fund or Account under any provisions of this Indenture shall be held by the Trustee in trust, under the terms hereof and shall not be subject to lien or attachment of any creditor of the Issuer or the Borrower. Such moneys shall be held in trust and applied in accordance with the provisions of this Indenture.

Section 5.10. Repayment to Borrower or Credit Provider from Indenture Funds. Any amounts remaining in any Fund or Account created under this Indenture, after payment or provision for payment in full of the Bonds in accordance with Article VI hereof, the fees, charges and expenses of the Issuer, the Trustee, the Tender Agent, the Remarketing Agent and any co-trustee appointed hereunder, and all other amounts required to be paid hereunder or under the Loan Agreement, and after and to the extent that the Borrower shall determine that the payment of such remaining amounts may be made without violation of the provisions of the Tax Certificate, shall be paid, upon the expiration of, or upon the sooner termination of, this Indenture, to the Credit Provider to the extent money shall be owed to the Credit Provider under the Reimbursement Agreement (as evidenced by written notice thereof given to the Trustee by the Credit Provider) and, thereafter, to the Borrower.

Section 5.11. Tax Covenants. Subject to the Borrower's direction of the investment of moneys on deposit in certain Funds pursuant to Section 5.08 hereof, the Issuer covenants and agrees that it will not take any action or fail to take any action that may be required and within the reasonable control of the Issuer, to the extent permitted by applicable law, with respect to the investment of the proceeds of any Bond or with respect to the payments derived under the Loan Agreement, or any other amounts regardless of the source or where held, which may result in any Bond being treated as an "arbitrage bond" within the meaning of such term as used in Section 148 of the Code. Subject to the appropriate Borrower's direction of the investment of moneys on deposit in certain Funds pursuant to Section 5.08 hereof, the Issuer further covenants and agrees that it will not take any action or fail to take any action that may be required and within the reasonable control of the Issuer, to the extent permitted by applicable law, with respect to the investment of the proceeds of any Bond, with respect to the payments derived under the Loan Agreement, or any other amounts regardless of the source or where held, which may cause the interest on any Bond to be includable in the gross income of the Owners thereof for purposes of federal income taxation. The Issuer shall be deemed to have complied with the requirements of this Section 5.11 so long as the Issuer acts on the written direction of the Borrower, and the Issuer shall be required to take action only based upon the written direction of the Borrower. The Trustee shall not take any action, permit any action to be taken or fail to take any action with respect to investments of any amounts held by the Trustee relating to the Bonds, to the extent the Trustee has investment discretion under Section 5.08 hereof, that may result in any Bond being treated as an "arbitrage bond" within the meaning of such term as used in Section 148 of the Code.

Section 5.12. Custody of Funds and Accounts. All Funds and Accounts created pursuant to this Indenture and held by the Trustee shall be held in trust, in the name of the Issuer, for the benefit of the Bondholders and, to the extent of amounts owed by the Borrower to the Credit Provider under the Reimbursement Agreement, the Credit Provider (other than amounts held in the Rebate Fund); provided that the Custody Account shall be held in trust for the benefit of the Credit Provider only.

Section 5.13. Excluded Funds; Transfers to Rebate Fund. Anything contained in this Indenture to the contrary notwithstanding (a) the Rebate Fund, the Purchase Fund, the amounts held by the Trustee in the Remarketing Account pursuant to Section 3.01 hereof, the amounts and beneficial interests in Pledged Bonds held by the Trustee pursuant to Section 3.06(c) hereof, and the Custody Account shall not be part of the Trust Estate created by this Indenture and (b) the Trustee shall be permitted to transfer moneys on deposit in any of the Funds and Accounts created by this Indenture to the Rebate Fund.

Section 5.14. [Reserved].

Section 5.15. Rebate Fund.

(a) The Trustee shall establish and maintain, so long as Bonds are Outstanding and are subject to a requirement of the Code that arbitrage profits be rebated to the United States of America, a “Rebate Fund.” The Trustee shall make information regarding the Bonds and investments hereunder available to the Borrower. The Trustee shall make deposits and disbursements from the Rebate Fund in accordance with the written instructions received from the Borrower and shall invest the amounts held in the Rebate Fund pursuant to written instructions from the Borrower. The Trustee shall deposit income from such investments immediately upon receipt thereof in the Rebate Fund. Anything in this Indenture to the contrary notwithstanding, the immediately preceding three sentences of this Indenture and Subsections (b) and (c) hereof may be superseded or amended by new instructions delivered by the Borrower and accompanied by an opinion of Bond Counsel addressed to the Trustee to the effect that the use of the new instructions will not cause a loss of the exclusion from gross income of the interest on the Bonds for federal income tax purposes.

(b) If a deposit to the Rebate Fund is required as a result of the computations made by or on behalf of the Borrower, the Trustee shall upon receipt of written direction from the Borrower accept such payment for the benefit of the Borrower. Records of the determinations required by this Section and the instructions must be retained by the Trustee until six (6) years after the Bonds are no longer Outstanding.

(c) Not later than sixty (60) days after the date designated in the Tax Certificate as the first Computation Date and every five (5) years thereafter until final maturity of the Bonds, the Trustee shall pay, upon written instruction from the Borrower, to the United States of America ninety percent (90%) of the amount required to be on deposit in the Rebate Fund as of such payment date. Not later than sixty (60) days after the final maturity of the Bonds, the Trustee shall pay to the United States of America one hundred percent (100%) of the amount required to be on deposit in the Rebate Fund. Each payment required to be paid to the United States of America pursuant to this Section shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each payment shall be accompanied by a copy of the Form 8038-T supplied by the Borrower and a statement of the Borrower summarizing the determination of the amount to be paid to the United States of America. Any moneys remaining in the Rebate Fund after payment of any such final rebate payment shall be promptly returned by the Trustee to the Borrower. If there is no requirement to rebate moneys, then no Form 8038-T need be filed with the Internal Revenue Service.

(End of Article V)

## **ARTICLE VI DISCHARGE OF INDENTURE**

Section 6.01. Discharge. If the Issuer shall pay or cause to be paid, or there shall be otherwise paid, or provision shall be made for the payment of, the principal, premium, if any, and interest due or to become due on the Bonds at the times and in the manner stipulated therein, and if the Issuer shall not then be in default under any of the other covenants and promises in the Bonds and this Indenture to be kept, performed and observed by it or on its part, and if the Issuer shall pay or cause to be paid to the Trustee all sums of money due or to become due according to the provisions hereof or of the Bonds and of the Loan Agreement (and the Trustee shall have paid all amounts payable to the Credit Provider pursuant to Section 5.10 hereof from trust funds and the Credit Facility shall have been returned to the Credit Provider for cancellation), then, except for the rights of the Trustee under Section 8.02 hereof, these presents and the interests in the Trust Estate and rights granted hereby shall cease, determine and be void, and the Trustee shall take such actions, at the request of the Issuer or the Borrower, as may be necessary to evidence the cancellation and discharge of the lien of this Indenture.

While in an Adjustable Rate Mode or the Fixed Rate Mode, a Bond shall be deemed to be paid within the meaning of this Article VI and for all purposes of this Indenture when (a) payment of the principal of and the applicable redemption premium, if any, on such Bond, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), shall have been provided to the Trustee by irrevocably depositing with the Trustee, in trust, and the Trustee shall have irrevocably set aside exclusively for such payment, any combination of (i) funds sufficient to make such payment (which funds shall be Seasoned Funds with respect to any Bond in an Adjustable Rate Mode), and/or (ii) Federal Securities (which Federal Securities shall have been purchased with Seasoned Funds with respect to any Bond in an Adjustable Rate Mode) not subject to redemption or prepayment and maturing as to principal and interest in such amounts and at such times as will, in the opinion of an independent certified public accountant delivered to the Trustee, provide sufficient moneys, without reinvestment of any matured amounts, to make such payment without reinvestment (and there shall be no such reinvestment); (b) the Trustee shall have been given irrevocable written instructions to call such Bond for redemption on a date certain, if such Bond is to be called for redemption prior to maturity; (c) the Trustee shall have received a written opinion of Bond Counsel to the effect that such deposit (and the payment of such Bond therefrom) will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes; and (d) all necessary and proper fees, compensation and expenses of the Trustee and the Tender Agent pertaining to such Bond shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

While in a Daily Rate Mode or a Weekly Rate Mode, a Bond shall be deemed to be paid within the meaning of this Article VI and for all purposes of this Indenture when (a) payment of (i) the principal and the applicable redemption premium, if any, on such Bond, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise) and (ii) the purchase price for such Bond if tendered for purchase prior to its due date (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise) shall have been provided to the Trustee by irrevocably depositing with the Trustee, in trust, and the Trustee shall have irrevocably set aside exclusively such payments, Seasoned Funds in any amount sufficient to

make such payment; (b) the Trustee shall have been given irrevocable written instructions to call such Bond for redemption on a date certain, if such Bond is to be called for redemption prior to maturity; (c) the Trustee shall have received a written opinion of Bond Counsel to the effect that such deposit (and the payment of such Bond therefrom) will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes; (d) the Trustee receives notice from each Rating Agency, promptly confirmed in writing to the Trustee, of the rating that such Bond will bear after payment is provided therefor in accordance with this paragraph and such rating is not lower than the rating borne by such Bond immediately prior to any such provision for payment; and (e) all necessary and proper fees, compensation and expenses of the Trustee and the Tender Agent pertaining to such Bond shall have been paid or the payment thereof provided for to the satisfaction of the Trustee. Seasoned Funds deposited with the Trustee as described in clause (a) of the preceding sentence shall not be invested. If a Bond for which Seasoned Funds have been so deposited with the Trustee is tendered for purchase prior to the date that such Bond matures or is redeemed, the purchase price for such Bond shall be paid with such Seasoned Funds; upon payment of such purchase price such Bond shall not be remarketed but shall be cancelled by the Trustee.

Section 6.02. Subrogation of Credit Provider. Notwithstanding any other provision to the contrary in this Indenture and unless otherwise agreed to by the Credit Provider, (i) to the extent that moneys are drawn by the Trustee under the Credit Facility or the Borrower is otherwise indebted to the Credit Provider under the Reimbursement Agreement and (ii) the fees, costs and expenses of the Issuer and the Trustee hereunder have been paid, then: (A) the lien of this Indenture shall not be discharged; (B) the Credit Provider shall be subrogated to the extent of such draws on the Credit Facility (which have been honored) or the Borrower's indebtedness to the Credit Provider under the Reimbursement Agreement to all rights of the Bondholders to enforce the payment of the Bonds from the Revenues and all other rights of the Bondholders under the Bonds, this Indenture and the Loan Agreement; (C) the Credit Provider shall be entitled in its own right upon payment in full of the principal of and interest on the Bonds to exercise all rights of enforcement and remedies set forth in Article VII hereof; (D) the Bondholders will be deemed paid to the extent of moneys drawn by the Trustee under the Credit Facility and honored by the Credit Provider; and (E) the Trustee shall sign, execute and deliver all documents or instruments and do all things which may be reasonably required by the Credit Provider to effect the Credit Provider's subrogation of rights of enforcement and remedies set forth in Article VII hereof in accordance with the intent of this Section, including without limitation, a conveyance and assignment of the Note to the Credit Provider.

(End of Article VI)

## **ARTICLE VII**

### **EVENTS OF DEFAULT AND REMEDIES**

Section 7.01. Events of Default. Subject to the provisions of Sections 7.11 and 7.13 hereof, each of the following events is hereby defined as, and declared to constitute, an “Event of Default” under this Indenture:

(a) default in the due and punctual payment of the principal or purchase price of, premium, if any, or interest on, any Outstanding Bond, whether at the stated maturity thereof, upon the purchase date thereof, upon any proceedings for redemption, or upon the maturity thereof by declaration of acceleration; or

(b) default by the Issuer in its performance or observance of any of the other covenants, agreements or conditions contained in this Indenture, and the continuation thereof for the period after notice thereof as specified in Section 7.12 hereof; or

(c) receipt by the Trustee of a written notice from the Credit Provider that an event of default has occurred under the Reimbursement Agreement and the Credit Provider is terminating its Credit Facility; or

(d) an event of default has occurred and is continuing under the Loan Agreement; or

(e) with respect to any Bond in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode (other than Pledged Bonds and Borrower Bonds), payment of principal or purchase price of, premium, if any, or interest on, any such Bond, whether at the stated maturity thereof, upon the purchase date thereof, upon any proceedings for redemption, or upon the maturity thereof by declaration of acceleration, is not made with moneys drawn under a Credit Facility, with Seasoned Funds or with remarketing proceeds.

Section 7.02. Acceleration. Upon the occurrence of an Event of Default described in Section 7.01(a) (but only if the Credit Provider has failed to honor a properly presented and conforming drawing under the Credit Facility), (c) or (e), the Trustee shall immediately accelerate the maturity of the Bonds then Outstanding, whereupon the principal of and all accrued interest on the Bonds shall become immediately due and payable, without premium, and interest shall cease to accrue from such date of acceleration. Upon the occurrence of any other Event of Default, including an Event of Default under 7.01(a) where the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, the Trustee may, and if requested to do so by either (a) the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility) or (b) the Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, with the consent of the Credit Provider (provided that the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility), shall, accelerate the maturity of the Bonds, whereupon the principal of and all accrued interest on the Bonds shall become immediately due and payable, without premium; provided that, if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, the Credit Provider has given its written consent to such acceleration. In the event of

any acceleration of the Bonds, the Trustee shall give the Issuer and the Borrower prompt written notice of the acceleration of the Loan.

Immediately following an acceleration pursuant to this Section, the Trustee shall draw upon the Credit Facility in accordance with its terms in an amount which equals the amount of principal of and interest on the Bonds coming due and payable that are so secured; provided that no such draw shall be made to pay any Pledged Bond, any Borrower Bond or any Bond not secured by the Credit Facility. All amounts derived by the Trustee with respect to any Credit Facility shall be deposited in the Credit Facility Account of the Bond Fund upon receipt thereof by the Trustee and applied as provided in Section 7.07 hereof; all moneys held by the Trustee in the Revenue Account or the Seasoned Funds Account of the Bond Fund shall be applied by the Trustee to reimburse the Credit Provider, or, to the extent that the Credit Provider fails to honor such draw, to pay the Bonds. All fees and expenses payable (or reasonably expected to be incurred) to the Trustee or the Tender Agent hereunder prior to the discharge of this Indenture shall be paid from available funds held by the Trustee other than funds representing proceeds of draws under the Credit Facility, or moneys already held for the benefit of the Bondholders.

**Section 7.03. Other Remedies; Rights of Bond Owners.** Upon the occurrence of any Event of Default, the Trustee may pursue any available remedy by suit at law or in equity to enforce the payment of the principal or purchase price of, premium, if any, and interest on the Bonds then Outstanding, and the performance by the Issuer of its obligations hereunder, including, without limitation, the following:

(a) by mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of such Bond Owners, and require the Issuer to carry out its obligations under this Indenture and the Act;

(b) bring suit upon the Bonds;

(c) by action, suit or proceeding at law or in equity require the Issuer to account for any moneys received by the Issuer as if it were the trustee of an express trust for the Bond Owners; and

(d) by action, suit or proceeding at law or in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bond Owners.

Any judgment against the Issuer shall be enforceable only against the Trust Estate. There shall not be authorized any deficiency judgment against any assets of, or the general credit of, the Issuer. Subject to the prior rights of the Bond Owners, the Issuer shall be entitled to reimbursement for any of its expenses in connection with such proceeding from any available funds in the Trust Estate. If the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, the Trustee shall not be entitled to exercise any remedy hereunder, with respect to an Event of Default set forth in Section 7.01(b) or (d) hereof, without the prior written consent of the Credit Provider.

Subject to the last sentence of the prior paragraph, if an Event of Default shall have occurred with respect to Bonds, and if requested to do so by the Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, and if indemnified as provided in Section 8.01(l) hereof, the Trustee shall be obligated to exercise one or more of the



rights and powers conferred by this Section or by Section 7.02 hereof as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bond Owners.

No remedy conferred upon or reserved to the Trustee or the Bond Owners by the terms of this Indenture is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or the Bond Owners hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein; and every such right and power may be exercised from time to time as often as may be deemed expedient. No waiver of any default or Event of Default hereunder, whether by the Trustee or the Bond Owners, shall extend to or shall affect any subsequent default or Event of Default or shall impair any right or remedy consequent thereon.

Section 7.04. Right of Bond Owners to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, upon the occurrence of an Event of Default, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee and the Credit Provider, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or for any other proceedings hereunder, other than for the payment of the principal or purchase price of, premium, if any, and interest on the Bonds, or any part thereof; provided, however, that direction shall not be otherwise than in accordance with the provisions of law and of this Indenture; and provided, further, that, if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, (a) no such direction shall be followed by the Trustee without the prior written consent of the Credit Provider, and (b) the Credit Provider may direct proceedings without any action by the Owners of any Bonds.

Section 7.05. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and the Bond Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to request the appointment of a receiver or receivers of the Trust Estate and of the revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 7.06. Waiver of Certain Laws. Upon the occurrence of an Event of Default, to the extent that such rights may then lawfully be waived neither the Issuer, nor anyone claiming through or under it, shall claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture. The Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

Section 7.07. Application of Moneys. All moneys relating to the Bonds received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall (after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees and expenses, liabilities and advances of the Issuer, the Trustee and the Tender Agent, it being understood that payment of such costs and expenses shall not be made

from the proceeds of any draw under the Credit Facility or any moneys already held for the benefit of the Bondholders (including remarketing proceeds and Seasoned Funds)) be deposited in the Revenue Account of the Bond Fund (or if received from the Credit Provider, in the Credit Facility Account of the Bond Fund) and all moneys in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Outstanding Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST - To the payment to the persons entitled thereto of all installments of interest then due on the Outstanding Bonds and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege (provided, however, that no payment shall be made with respect to any Pledged Bond or Borrower Bond);

SECOND - To the payment to the persons entitled thereto of the unpaid principal of, and premium, if any, on, the Outstanding Bonds which shall have become due (other than Bonds matured or called for redemption for the payment of which moneys are already held pursuant to the provisions of this Indenture) in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the principal of each Bond due on any particular date, together with such premium, then to the payment ratably, according to the amount of principal and premium due on such date, to the persons entitled thereto, without any discrimination or privilege (provided, however, that no payment shall be made with respect to any Pledged Bond or Borrower Bond); and

THIRD - To the payment to the Credit Provider to reimburse the Credit Provider for drawings on the Credit Facility used to pay principal, premium or interest on the Bonds secured by the Credit Facility.

(b) If the principal of all the Outstanding Bonds shall have become due or shall have been declared due and payable by acceleration, all such moneys shall be applied first to the payment of the principal, premium, if any, and interest then due on such Bonds, without preference or priority of principal and premium over interest or of interest over principal and premium, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal, premium, if any, and interest, to the persons entitled thereto, without any discrimination or privilege (provided, however, that no payment shall be made with respect to any Pledged Bond or Borrower Bond), and second to the payment of all obligations owed to the Credit Provider pursuant to the Reimbursement Agreement.

(c) If the principal of all the Outstanding Bonds shall have been declared due and payable by acceleration, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article, then the moneys shall be applied in accordance with the provisions of subsection (a) above; provided, however, that in the event that the principal of all the Bonds shall later become due or be declared due and payable by acceleration, the moneys shall be applied in accordance with the provisions of subsection (b) above.

Notwithstanding the foregoing restrictions on payment in respect of any Pledged Bond or Borrower Bond, moneys may be applied to the payment first of Pledged Bonds and second of Borrower Bonds, but only after payment in full of all other Outstanding Bonds and of all obligations owed to the Credit Provider pursuant to the Reimbursement Agreement; and, to the extent that such surplus moneys are not available for application to Pledged Bonds or Borrower Bonds after acceleration of the Bonds, all Pledged Bonds and Borrower Bonds shall be deemed to be no longer Outstanding and shall be cancelled, and no payment shall be made in respect thereof. Under no circumstances shall any Pledged Bond or any Borrower Bond be paid with moneys on deposit in the Credit Facility Account of the Bond Fund; rather, Pledged Bonds and Borrower Bonds shall be paid solely and only from moneys on deposit in the Revenue Account of the Bond Fund; provided that, if the Bonds are then held in a book-entry only system, the procedures concerning waivers of payments with respect to DTC and direct payments to the Credit Provider, as set forth in Section 3.06(d) of this Indenture, shall be followed. Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine is appropriate upon due consideration of the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future.

Whenever the Trustee shall apply such funds it shall fix the date of application, which shall be an Interest Payment Date unless it shall deem, in the reasonable exercise of its discretion, another date more suitable. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date.

Section 7.08. Remedies Vested in Trustee. All rights of action (including the right to file proofs of claim) under this Indenture and under the Bonds or any Bond may be enforced by the Trustee without the possession of any Bond or the production thereof in any trial or proceedings related thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiff or defendant the Owner of any Bond.

Section 7.09. Rights and Remedies of Bond Owners. No Owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless:

(a) an Event of Default has occurred of which the Trustee has been notified as provided in Section 8.01(h) hereof, or of which by said Section 8.01(h) the Trustee is deemed to have notice;

(b) the Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in the name or names of such Owners, and shall have offered to the Trustee indemnity as provided in Section 8.01(l) hereof;

(c) the Trustee shall thereafter fail or refuse to exercise the powers herein before granted, or to institute such action, suit or proceeding in its own name, within 60 days; and

(d) if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, the Credit Provider has given its prior written consent thereto;

and such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder. No one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by such Owners' action, and all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and (except as herein otherwise provided) for the equal and ratable benefit of the Owners on all Bonds then Outstanding. Nothing in this Indenture, however, shall affect or impair the right of any Bond Owner to enforce the payment of the principal of, premium, if any, and interest on any Bond owned by such Bond Owner at and after the maturity thereof, or the obligation of the Issuer to pay the principal of, premium, if any, and interest on any Bond to the Owner thereof at the time and place, from the source, and in the manner expressed in such Bond. Nothing contained herein shall be construed as permitting or affording any Bond Owner a right or cause of action against the Trustee or in respect of the Bonds where a default has been waived under Section 7.11 hereof or cured under Section 7.12 hereof.

Section 7.10. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer, the Trustee, the Credit Provider and the Bond Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.11. Waivers of Events of Default. The Trustee may in its discretion, upon consent of the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility), and upon written direction of the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility) shall, waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding; provided, however, that the Trustee may not waive an Event of Default described in subparagraph (a), (c) or (e) of Section 7.01 hereof without the written consent of the Owners of all Bonds then Outstanding, and the Trustee may not waive any Event of Default without the prior full reinstatement of amounts available to be drawn under the Credit Facility.

Section 7.12. Notice of Default; Opportunity to Cure Defaults. Anything herein to the contrary notwithstanding, no default under Section 7.01(b) or (d) hereof shall constitute an Event of Default until the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility) shall have concurred therein, and actual notice of such default by registered or certified mail shall be given to the Issuer and the Borrower by the Trustee or by the Owners of not less than 25% in aggregate principal amount of all Bonds Outstanding, and the Issuer and the Borrower shall have had 30

days after receipt of such notice at their option to correct said default or to cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, that if said default be such that it cannot be corrected within the applicable period but can be corrected within a reasonable period of time agreed to by the Trustee, it shall not constitute an Event of Default if corrective action is instituted by the Issuer and the Borrower, or either of them, within the applicable period and diligently pursued until the default is corrected.

With regard to any default concerning which notice is given under the provisions of this Section 7.12, the Issuer, to the full extent permitted by law, hereby grants the Borrower full authority to perform and observe for the account of the Issuer any covenant or obligation alleged in said notice not to have been performed or observed in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts, with power of substitution. The Trustee hereby consents to such grant of authority.

Section 7.13. Limitation on Defaults and Remedies. Notwithstanding anything herein to the contrary, prior to the Expiration of the Term of the Credit Facility and as long as the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, the Credit Provider shall be entitled, but not obligated, to direct the Trustee in the exercise of all rights and remedies under this Article, including, but without limitation, acceleration of the Bonds, institution of legal proceedings and the granting of any waivers with respect to the foregoing. Until such time as the Credit Provider has failed to honor a properly presented and conforming drawing under the Credit Facility, neither the Trustee, the Issuer nor the Owners of the Bonds shall have the right or be permitted to exercise any of the rights or remedies granted or permitted to any one or more of them under this Article VII without the express written consent of the Credit Provider; provided, however, that the Trustee shall have the ability to accelerate the maturity of the Bonds upon the occurrence of an Event of Default described in Section 7.01(c) or (e) hereof without the express written consent of the Credit Provider; and provided, further, that nothing in this Section is intended or shall be construed to affect the obligation of the Trustee pursuant to Section 5.04, which is absolute and unconditional, to demand and collect all amounts due and payable under the Credit Facility when and as the same shall become due and payable.

(End of Article VII)

## **ARTICLE VIII**

### **THE TRUSTEE, TENDER AGENT AND REMARKETING AGENT**

Section 8.01. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiving of all such Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Trustee may execute any of the trusts hereof, exercise any powers hereunder and perform any of its duties hereunder by or through attorneys, agents, receivers or employees, but shall not be answerable for any misconduct or negligence on the part of the same if appointed with due care hereunder. Neither the Remarketing Agent nor the Credit Provider shall be deemed an agent of the Trustee for any purpose, and the Trustee shall not be responsible for the compliance by either of them with their respective obligations under this Indenture or in connection with the transactions contemplated herein. The Trustee shall be entitled to the advice of counsel (which may be an employee or affiliate of the Trustee) concerning all matters of trust hereof and its duties hereunder, and in all cases may pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trust hereof. The Trustee may act upon the opinion or advice of any attorneys approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action exercised in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (other than the certificate of authentication thereon), the legality, sufficiency or validity of this Indenture, the Loan Agreement, the Reimbursement Agreement, the Credit Facility, the Bonds or any document or instrument relating hereto or thereto; the recording or filing of any instrument required by this Indenture to secure the Bonds; insuring the Project or collecting any insurance proceeds; the validity of the execution by the Issuer of this Indenture or of any supplement hereto or amendment hereof or of any instrument of further assurance; or the validity, priority, perfection or sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or otherwise as to the maintenance of the security hereof, except for the filing of Uniform Commercial Code continuation statements at the direction and expense of the Borrower.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may in good faith buy, sell, own and hold any of the Bonds (or beneficial interests therein) in its own name and may join in any action which any Bond Owner may be entitled to take with like effect as if the Trustee was not a party to this Indenture. The Trustee may also engage in or be interested in any financial or other transaction with the Issuer, the Credit Provider, the Tender Agent, the Remarketing Agent or the Borrower

provided, however, that if the Trustee determines that any such relationship is in conflict with its duties under this Indenture, it shall eliminate the conflict or resign as Trustee. To the extent permitted by law, the Trustee may also purchase Bonds (or beneficial interests therein) with like effect as if it were not the Trustee.

(e) The Trustee shall be protected in acting upon, and may conclusively rely upon, any notice, certificate, opinion, request or other paper or document reasonably believed by it to be genuine and correct, and reasonably believed by it to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any person, who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and any Bond issued in replacement therefor.

(f) As to the existence or nonexistence of any fact, or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by a duly authorized representative of the Issuer, the Tender Agent, the Remarketing Agent, the Credit Provider or the Borrower as sufficient evidence of the facts therein contained; and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section 8.01, or of which by said subsection (h) it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient. The Trustee may, at its discretion, secure such further evidence (including, but not limited to, legal opinions) deemed necessary or advisable by it, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the officer of the Issuer charged with the maintenance of its books and records over the seal of the Issuer to the effect that a resolution or ordinance in the form therein set forth has been adopted and is in full force and effect.

(g) The right of the Trustee to perform any discretionary act enumerated in this Indenture shall not be construed as a duty. The Trustee shall not be answerable for other than its negligence or willful misconduct in the performance of its powers and duties under this Indenture.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default or Event of Default hereunder or in any other document or instrument executed in connection with the execution and delivery of the Bonds, except an Event of Default under Section 7.01(a), (c) or (e) hereof, unless the Trustee shall be specifically notified in writing of such default or Event of Default by the Issuer, the Remarketing Agent, the Tender Agent, the Credit Provider, the Borrower or the Owners of at least 25% in aggregate principal amount of the Bonds then Outstanding. All notices or other instruments required by this Indenture to be delivered to the Trustee shall be delivered at the designated corporate trust office of the Trustee, and, in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(i) At any and all reasonable times, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect fully all books, papers and records of the Issuer pertaining to this Indenture, the Loan Agreement and the Bonds, and to make such photocopies thereof and memoranda therefrom and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the trust created hereby or the powers granted hereunder.

(k) Notwithstanding anything contained elsewhere in this Indenture to the contrary, the Trustee shall have the right, but not the obligation, to demand, in respect of the withdrawal of any cash, the release of any property, or the taking of any action whatsoever within the purview of this Indenture, any showing, certificate, opinion, appraisal or other information, or corporate action or evidence thereof, in addition to that required by the terms hereof as a condition of such action by the Trustee, as deemed desirable for the purposes of establishing the right of the Issuer, the Credit Provider or the Borrower to the withdrawal of any cash, the release of any property or the taking of any other action by the Trustee.

(l) Before taking any action referred to in Article VII or Section 8.03 hereof (except with respect to any drawing under the Credit Facility and payment of the Bonds therefrom at the time or times payment is due (whether upon maturity, redemption, mandatory or optional tender for purchase or otherwise), or with respect to acceleration of the Bonds and payment of such Bonds upon such acceleration), the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses which it may incur and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct, by reason of any action so taken.

(m) All moneys received by the Trustee shall, until used, applied or invested as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds, except to the extent required by law or this Indenture. The Trustee shall be under no liability for interest on any moneys received by it hereunder.

(n) Notwithstanding the effective date of this Indenture or anything to the contrary in this Indenture, the Trustee shall have no liability or responsibility for any act or event relating to this Indenture which occurs prior to the date the Trustee formally executes this Indenture and commences acting as Trustee hereunder.

(o) No provision of this Indenture shall be deemed to require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of its rights or powers, including but not limited to, any action to enforce payment by the Credit Provider of the Credit Facility, if the Trustee shall have reasonable grounds for believing that repayment of such funds, or, in the alternative, adequate indemnity against such risk or liability, is not reasonably assured to it.

(p) The Trustee has no obligation or liability to the Bondholders for the payment of interest or premium, if any, on, or principal or purchase price of, the Bonds, but rather the Trustee's sole obligation is to administer, for the benefit of the Credit Provider and the Bondholders, the various Funds and Accounts established hereunder and applicable thereto.

(q) The Trustee and the Tender Agent shall cooperate fully with the Borrower, at the expense of the Borrower, in filing any proof of loss with respect to any insurance policy maintained by the Borrower with respect to its Project, and in the prosecution or defense or any prospective or pending eminent domain proceeding, with respect to the Project or any part thereof.



Section 8.02. Annual Fees, Charges and Expenses of Trustee and Tender Agent. The Trustee and the Tender Agent shall be entitled to reasonable compensation for all services rendered by them under this Indenture. In addition, the Trustee and the Tender Agent shall be entitled to reimbursement for their charges and expenses (including reasonable counsel fees and expenses) incurred in connection with such services. Such compensation and reimbursement shall be paid by the Borrower pursuant to Section 4.4 of the Loan Agreement and neither the Trustee nor the Tender Agent shall have any right, title, interest in or lien on any moneys held under or pursuant to this Indenture for the benefit of the Bondholders (including moneys deposited in the Bond Fund or the Purchase Fund). The Issuer shall require the Borrower, pursuant to the Loan Agreement, to indemnify and hold harmless the Trustee and the Tender Agent against any liabilities which the Trustee and the Tender Agent may incur in the exercise and performance of their powers and duties hereunder and under any other agreement referred to herein which are not due to the Trustee's or the Tender Agent's negligence or willful misconduct, and for any fees and expenses of the Trustee and the Tender Agent to the extent funds are not available under this Indenture for the payment thereof. The rights of the Trustee and the Tender Agent under this Section shall survive the payment in full of the Bonds and the discharge of this Indenture. When the Trustee incurs expenses or renders services after the occurrence of an Act of Bankruptcy with respect to the Borrower, the expenses and compensation for the services of the Trustee are intended to constitute administrative expenses under any federal or state bankruptcy, insolvency arrangement, moratorium, reorganization or other debt relief.

Section 8.03. Notice to Bond Owners of Default or Delivery of Alternate Credit Facility. If a default occurs of which the Trustee is required by Section 8.01(h) hereof to take notice or of which notice of default is given as provided in Section 8.01(h) hereof, then the Trustee shall promptly give written notice thereof by certified mail, postage prepaid, to each Owner of Bonds then Outstanding; provided, however, that as long as the Credit Provider shall not fail to honor a properly presented and conforming drawing under the Credit Facility, no such notice need be sent to Bondholders secured by the Credit Facility with respect to any Event of Default under Section 7.01(d) hereof to the extent such Event of Default results from an event of default under Section 8.1(a) of the Loan Agreement. The Trustee shall promptly give written notice to the Remarketing Agent, the Issuer, the Credit Provider and the Borrower by certified mail of any such notice of default sent to any Owner of Bonds as provided hereunder.

Section 8.04. Intervention by Trustee. In any judicial proceeding to which the Issuer, the Credit Provider or the Borrower is a party, and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Owners of the Outstanding Bonds, the Trustee may intervene on behalf of the Owners of such Bonds and shall do so if requested in writing by the Owners of at least 25% in aggregate principal amount of such Bonds then Outstanding or the Credit Provider, and when provided with sufficient indemnity pursuant to Section 8.01(l) hereof.

Section 8.05. Successor Trustee by Merger or Otherwise. Any corporation or association into which the Trustee may be converted or merged, with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto shall (if it is qualified to be Trustee hereunder) be and become the Trustee hereunder vested with all of the title to the

Trust Estate and all the trusts, powers, discretions, immunities, privileges, responsibilities, obligations and all other matters as was its predecessor, without the execution or filing of any instrument (other than as required by the Credit Facility) or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor Trustee meets the requirements of Section 8.14(a) hereof.

Section 8.06. Resignation by Trustee. The Trustee may resign from the trusts hereby created by giving written notice to the Issuer, the Borrower, the Tender Agent, the Remarketing Agent, the Credit Provider and the Owners of the Bonds then Outstanding, and shall so resign whenever it ceases to be qualified to act as Trustee hereunder. Such notice shall be sent by certified mail, postage prepaid, to the Bond Owners. Such resignation shall take effect upon the appointment of a successor Trustee, and upon the transfer to such successor Trustee of the Credit Facility and all Funds and Accounts held by the Trustee hereunder. If no successor Trustee is appointed pursuant to Section 8.08 hereof within 30 days after the delivery of such notice, a temporary Trustee may be appointed by the Issuer although the Issuer shall have no obligation to make such appointment. If no successor Trustee or temporary Trustee is appointed within 45 days after delivery of such notice, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee. All costs, fees and expenses relating to such petition shall be paid by the Borrower. Such resignation shall not take effect until a successor or temporary Trustee is appointed.

Section 8.07. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer, and signed by the owners of a majority in aggregate principal amount of Bonds then outstanding or by the Borrower, with the consent of the Credit Bank and the Issuer, if no default then exists hereunder. Such removal shall not take effect until a successor Trustee has been appointed and until the Trustee has transferred to such successor Trustee the Credit Facility and all Funds and Accounts held by the Trustee hereunder.

Section 8.08. Appointment of Successor Trustee. In case the Trustee shall resign, be removed, be dissolved, be in the course of dissolution or liquidation or otherwise become incapable of acting or not be qualified to act hereunder, or in case the Trustee shall be taken under the control of any public officer or officers or a receiver appointed by a court, a successor may be appointed by the Issuer acting upon the written direction of the Borrower and the Credit Provider, and notice to the Remarketing Agent, the Tender Agent and the Bond Owners. Such notice shall be sent by certified mail, postage prepaid, to the Bond Owners.

Section 8.09. Successor Trustee. Every successor Trustee (including any temporary trustee appointed by the Issuer pursuant to Section 8.06 hereof) appointed hereunder shall execute, acknowledge and deliver to its predecessor, the Credit Provider, the Tender Agent, the Remarketing Agent, the Borrower and the Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with the title to the Trust Estate and all of the trust powers, discretions, immunities, privileges, responsibilities, obligations and all other matters of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, or of its successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall transfer the Credit Facility in accordance with its terms, and deliver all

securities and moneys held by it as the Trustee hereunder, to its successor Trustee. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded. No appointment of a successor Trustee hereunder shall become effective unless such successor meets the requirements of Section 8.14(a) hereof and the predecessor Trustee has transferred the Credit Facility to the successor Trustee.

#### Section 8.10. Appointment of Tender Agent.

(a) In the event the Bonds are no longer held in a book-entry only system and upon the direction of the Borrower, the Trustee shall appoint a Tender Agent for such Bonds. The Tender Agent shall have power to act (i) in the authentication and delivery of Bonds in connection with transfers and exchanges, and (ii) in effecting purchases and sales of Bonds pursuant hereto, receiving notices of tender for purchase, making deliveries of Bonds and holding Bonds pursuant hereto. For all purposes of this Indenture, the authentication and delivery of Bonds by the Tender Agent shall be deemed to be the authentication and delivery of Bonds “by the Trustee.”

(b) Any successor corporation to the initial Tender Agent is otherwise eligible under this Section, without the execution or filing of any document or any further act on the part of the parties hereto, the Tender Agent or such successor corporation; provided, however, that such successor corporation meets the requirements of paragraph (c) below.

(c) The Tender Agent may at any time resign by giving 30 days’ written notice of resignation to the Trustee, the Credit Provider, the Borrower, the Remarketing Agent and the Issuer, and by mailing notice of such resignation by certified mail to the Owners of the Bonds, and such resignation shall take effect upon the Trustee’s assumption of the duties of the Tender Agent, or upon the appointment by the Trustee upon the direction of the Borrower of a successor tender agent, and the acceptance by the successor tender agent of such appointment. Each Tender Agent (i) shall at all times be a commercial bank with trust powers or a trust company, (ii) shall at all times be organized and doing business under the laws of the United States or of any state, (iii) shall have a combined capital and surplus of at least \$30,000,000, (iv) shall be authorized under such laws to exercise corporate trust powers, and (v) shall be subject to supervision or examination by federal or state authority. If such successor Tender Agent publishes reports of condition at least annually pursuant to law or the requirements of federal or state authority, then for the purposes of this Section 8.10, the combined capital and surplus of such successor Tender Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee may at any time terminate the agency of any Tender Agent by giving written notice of termination to such Tender Agent, the Borrower, the Credit Provider, the Remarketing Agent and the Issuer, and by mailing notice of such termination by certified mail to the registered owners of the Bonds. Upon such a termination, or in case at any time any successor Tender Agent shall cease to be eligible under this Section, the Trustee, with the consent of the Credit Provider, shall either assume the duties

of the Tender Agent, or the Trustee shall appoint a successor Tender Agent; and in such event the Trustee shall give written notice of such assumption or appointment to the Issuer, the Borrower, the Credit Provider and the Remarketing Agent, and shall mail notice of such assumption or appointment by certified mail to all registered owners of the Bonds. The Trustee agrees to furnish to the Tender Agent and the Rating Agencies, if the Bonds are rated, a copy of all notices sent to, or delivered by, it under this Section. The Tender Agent shall be entitled to all exculpations and indemnifications granted to the Trustee, as applicable, pursuant to this Article.

(d) Following the Fixed Rate Conversion Date of all the Bonds, there shall be no requirement for the services of a Tender Agent hereunder.

(e) Unless and until a Tender Agent is appointed in accordance with this Section, all references in this Indenture to the Tender Agent shall be of no force and effect.

Section 8.11. Remarketing Agent. J.P. Morgan Securities Inc., Chicago, Illinois, is hereby appointed the initial Remarketing Agent for the Bonds by the Issuer. The Issuer shall, within 15 days of the resignation or removal of the Remarketing Agent, appoint a successor Remarketing Agent for the Bonds (pursuant to written direction received from the Borrower), subject to the conditions set forth in Section 8.12 hereof; and provided that the Credit Provider consents to such appointment. If the Issuer fails to appoint a successor Remarketing Agent within 30 days of the resignation or removal of the Remarketing Agent, the Credit Provider, or the Trustee with the consent of the Credit Provider, may appoint a successor Remarketing Agent, subject to the conditions set forth in Section 8.12 hereof. Any successor Remarketing Agent shall designate to the Trustee, the Tender Agent, the Credit Provider and the Borrower its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower, the Credit Provider and the Trustee (with a copy thereof mailed by certified mail to each Bond Owner) under which the Remarketing Agent will agree particularly to (a) use its best efforts to remarket any Bond tendered or deemed to be tendered for purchase in accord with the terms hereof, (b) keep such books and records as shall be consistent with prudent industry practice and any remarketing agreement, and to make the information contained in such books and records available to the Issuer, the Trustee, the Credit Provider, the Remarketing Agent and the Borrower at all reasonable times, and (c) determine the Daily Rate, the Weekly Rate, the Adjustable Rate and the Fixed Rate as required herein. Nothing contained in this Section shall obligate the Remarketing Agent to remarket Pledged Bonds, Borrower Bonds or Fixed Rate Bonds unless the Remarketing Agreement provides therefor. Under no circumstances shall the Remarketing Agent have a lien on the Bond Fund or the Remarketing Account. As long as the Bonds are held in a book-entry only system, the Remarketing Agent must be the sole participant in such system with respect to the Bonds.

In the event of failure to appoint a Remarketing Agent as described in this Section 8.11, or in the event that the Remarketing Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Remarketing Agent shall be taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and a successor Remarketing Agent shall not have appointed as described in this Section 8.11, the Trustee shall, ipso facto, be deemed to be the Remarketing Agent for the purposes hereunder of accepting Bonds that have been tendered for purchase and determining the interest rate on the Bonds in accordance with Section 2.02 hereof until the appointment of a successor

Remarketing Agent as described in this Section 8.11; provided, however, that the Trustee shall not be required to remarket the Bonds, or to determine the interest rate on the Bonds except in the manner provided in Section 2.02 hereof.

Section 8.12. Qualifications of Successor Remarketing Agents; Resignation or Removal of Remarketing Agents.

(a) Each successor Remarketing Agent shall be authorized by law to perform all the duties imposed upon it by this Indenture. Each successor Remarketing Agent shall have a remarketing portfolio valued at not less than \$100,000,000. As long as the Bonds are held in a book-entry only system, each successor Remarketing Agent shall be the sole participant in such system with respect to the Bonds.

(b) A Remarketing Agent (whether initial or successor) may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' written notice to the Issuer, the Borrower, the Tender Agent, the Credit Provider and the Trustee (with a copy thereof mailed by certified mail to each of the Bond Owners). A Remarketing Agent (whether initial or successor) may be removed at any time at the direction of the Issuer and the Borrower or at the direction of the Credit Provider with notice to the Issuer and the Borrower, by an instrument signed by the Issuer and the Borrower, in the case of removal by the Issuer and the Borrower or signed by the Credit Provider in the case of removal by the Credit Provider with notice to the Issuer and the Borrower, and filed, in either case, at least 30 days prior to such removal with the Remarketing Agent and with the Trustee. No removal or resignation hereunder shall become effective prior to the acceptance of appointment of a successor Remarketing Agent hereunder.

(c) Following the Fixed Rate Conversion Date, there shall be no requirement for the services of a Remarketing Agent hereunder for the Bonds so converted.

Section 8.13. Appointment of Separate or Co-Trustee. It is the intent of the parties to this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the rights of banking corporations or associations to transact business as a trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, and in particular in the case of the enforcement of this Indenture on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee, or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate trustee or co-trustee. The following provisions of this Section 8.13 are adapted to these ends.

If the Trustee appoints an additional individual or institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, duty, obligation, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee with respect thereto shall be exercisable by, vested in and conveyed to such separate trustee or co-trustee, but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights and remedies, and every

covenant and obligation necessary for the exercise thereby by such separate trustee or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Issuer be required by the separate trustee or co-trustee so appointed by the Trustee for more fully vesting in and confirming to them such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. If any separate trustee or co-trustee, or a successor to either, shall die, become incapable of acting or not be qualified to act, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such separate trustee or co-trustee.

#### Section 8.14. Qualifications.

(a) Each successor to the Trustee and each institutional co-trustee (if any) shall at all times be a commercial bank with trust powers or a trust company qualified to serve as the Trustee under the laws of the State, which (i) is organized as a corporation or a national banking association and doing business under the laws of the United States or any state thereof, (ii) is authorized under such laws to exercise corporate trust powers, (iii) is subject to supervision or examination by federal or state authority, (iv) has combined capital and surplus (as set forth in its most recent published report of condition) of at least \$50,000,000, and (v) shall not have become incapable of acting or have been adjudged a bankrupt or an insolvent nor have had a receiver appointed for itself or for any of its property, nor have had a public officer take charge or control of it or its property or affairs for the purpose of rehabilitation, conservation or liquidation.

(b) Should any successor to the Trustee or any institutional co-trustee at any time cease to be eligible, pursuant to this Section, to act as successor Trustee or co-trustee (as the case may be), it shall promptly notify the Owners of all Outstanding Bonds, the Issuer, the Borrower, the Remarketing Agent, the Credit Provider and the Tender Agent of such fact; such notice shall be sent by certified mail, postage prepaid, to the Bond Owners. Any such notice shall set forth all the relevant facts known to the Trustee.

(End of Article VIII)

## **ARTICLE IX SUPPLEMENTAL INDENTURES**

### **Section 9.01. Supplemental Indentures Not Requiring Consent of Bond Owners.**

Subject to the terms and provisions of Sections 9.03 and 9.04 of this Indenture, the Issuer, acting upon the written direction of the Borrower, and the Trustee may, without the consent of, or notice to, any of the Bond Owners, enter into indentures supplemental to this Indenture, not inconsistent with the terms and provisions hereof, for any one or more of the following purposes: (a) to cure an ambiguity, formal defect or omission in this Indenture; (b) to grant to or confer upon the Trustee, for the benefit of the Bond Owners, any additional rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bond Owners or the Trustee; (c) to subject to this Indenture additional revenues, properties or collateral; (d) to modify, amend or supplement this Indenture, or any indenture supplemental hereto, in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, or to permit the qualification of the Bonds for sale under the securities laws of any of the states of the United States, and if the Issuer so determines, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by the Trust Indenture Act of 1939, as amended, or any similar federal statute; (e) to add to the covenants and agreements of the Issuer contained in this Indenture other covenants and agreements thereafter to be observed for the protection of the Bond Owners or to surrender or limit any right, power or authority herein reserved to or conferred upon the Issuer; (f) to elaborate on any provisions necessary to exercise any conversion options provided herein including better enabling different Bonds to be in different Modes; (g) to provide that Bonds in the Fixed Rate Mode may be secured by a Credit Facility or other additional security not otherwise provided for in the Indenture or the Loan Agreement; (h) to modify, amend or supplement this Indenture, or any indenture supplemental hereto, in such manner as the Trustee, the Borrower and the Remarketing Agent deem necessary in order to comply with any statute, regulation, judicial decision or other law relating to secondary market disclosure requirements with respect to tax-exempt obligations of the type that includes the Bonds; and (i) to make any other change which does not, in the opinion of the Trustee, have a material adverse effect upon the interests of the Bondholders.

### **Section 9.02. Supplemental Indentures Requiring Consent of Bond Owners.**

Exclusive of supplemental indentures covered by Section 9.01 hereof, this Indenture may be amended or supplemented only as provided in this Section. Subject to the terms and provisions contained in Sections 9.03 and 9.04 of this Indenture, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to approve the execution by the Issuer, acting upon the written direction of the Borrower, and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer, acting upon the written direction of the Borrower, for the purposes of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture. If at any time the Issuer, acting upon the written direction of the Borrower, shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by certified mail to the Credit Provider and the Bond Owners. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the designated corporate

trust office of the Trustee for inspection by all Bond Owners. If, within 60 days, or such longer period as shall be prescribed by the Issuer, acting upon the written direction of the Borrower, following the mailing of such notice, the Owners of the requisite percentage in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof; or in any manner to question the propriety of the execution thereof; or to enjoin or restrain the Trustee or the Issuer (subject to Section 9.04) from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section and Section 9.04 permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 9.03. Limitation Upon Amendments and Supplements. Nothing contained in Sections 9.01 and 9.02 hereof shall permit, or be construed as permitting, without the consent and approval of the Owners of all of the Bonds then Outstanding (a) an extension of the maturity of the principal of, or the time for payment of any redemption premium or interest on, any Bond previously issued, or a reduction in the principal amount of any Bond previously issued, or the rate of interest or redemption premium thereon, or a reduction in the amount of, or extension of the time of any payment required by, any Bond previously issued, or a material modification of the Bondholders' optional or mandatory tender rights hereunder; (b) a privilege or priority of any Bond over any other Bond (except as herein provided); (c) a reduction in the aggregate principal amount of the Bonds required for consent to such a supplemental indenture; (d) the deprivation of the Owner of any Bond then Outstanding of the lien created by this Indenture; (e) except as provided in Article X hereof, an alteration of the obligations of the Credit Provider under the Credit Facility; or (f) the amendment of this Section 9.03. No amendment or supplement to this Indenture may be entered into without the Trustee and the Issuer first receiving an opinion of Bond Counsel to the effect that such amendment or supplement is authorized under this Indenture and the Act, and will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Bonds.

Section 9.04. Consent of Credit Provider, Borrower, Remarketing Agent and Tender Agent Required. Anything herein to the contrary notwithstanding, an amendment or supplemental indenture under this Article shall not become effective unless and until the Borrower and the Credit Provider shall have consented in writing to the execution and delivery thereof; provided, however, that the consent of the Borrower or the Credit Provider, as the case may be, shall not be required during any period that the Borrower is in default under the Loan Agreement or, in the case of the Credit Provider, if the Credit Provider has failed to honor a properly presented and conforming drawing under the Credit Facility. The Trustee shall inform the Tender Agent and the Remarketing Agent of any amendment or supplement to the Indenture affecting the respective rights and obligations of the Tender Agent and the Remarketing Agent, and such amendment or supplement shall not become effective unless and until the Tender Agent or the Remarketing Agent, as the case may be, shall have consented in writing to the provisions thereof which affect its rights and obligations.

(End of Article IX)



## ARTICLE X

### AMENDMENT OF CERTAIN LOAN DOCUMENTS AND CREDIT FACILITY

Section 10.01. Amendments of Loan Agreement Not Requiring Consent of Bond Owners. Subject to the terms and provisions of Sections 10.03 and 10.04 of this Indenture, the Issuer and the Borrower may, with the prior written consent of the Trustee and the Credit Provider, amend or modify the Loan Agreement, or any provision thereof, or may consent to the amendment or modification thereof, in any manner not inconsistent with the terms and provisions of this Indenture, for any one or more of the following purposes: (a) to cure any ambiguity or formal defect in the Loan Agreement; (b) to grant to or confer upon the Issuer, the Credit Provider or the Trustee, for the benefit of the Bond Owners, any additional rights, remedies, powers or authorities that lawfully may be granted to or conferred upon the Issuer, the Credit Provider or the Trustee; (c) to identify more clearly the Project, or any part thereof, or to add to or subtract from the Project, or any part thereof, any property that, in the written opinion of Bond Counsel filed with the Issuer, the Credit Provider and the Trustee, will not impair the compliance of the Bonds with the Act, or adversely affect the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds; (d) to amend or modify the Loan Agreement, or any part thereof, in any manner specifically required or permitted by the terms thereof, including, without limitation, as may be necessary to maintain the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds; (e) to provide that Bonds in the Fixed Rate Mode may be secured by a Credit Facility or other additional security not otherwise provided for in the Indenture or the Loan Agreement; (f) to modify, amend or supplement the Loan Agreement, or any part thereof, or any supplement thereto, in such manner as the Trustee, the Borrower and the Remarketing Agent deem necessary in order to comply with any statute, regulation, judicial decision or other law relating to secondary market disclosure requirements with respect to tax-exempt obligations of the type that includes the Bonds; and (g) to make any other change which does not, in the opinion of the Trustee, having relied on an opinion of counsel, have a material adverse effect upon the interests of the Bondholders.

Section 10.02. Amendments of Loan Agreement Requiring Consent of Bond Owners. Exclusive of amendments and modifications covered by Section 10.01 hereof, the Loan Agreement may be amended or modified only as provided in this Section 10.02. Subject to the terms and provisions contained in Sections 10.03 and 10.04 of this Indenture, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, with the prior written consent of the Trustee and the Credit Provider if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility, shall have the right, from time to time, to consent to and approve the amendment or modification of the Loan Agreement as shall be deemed necessary and desirable by the Trustee for the purpose of amending and modifying, in any particular, any of the terms or provisions contained in the Loan Agreement. If at any time the Trustee shall be asked to enter into or to consent to any such amendment or modification, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such modification or amendment to be mailed by certified mail to the Credit Provider and the Bond Owners. Such notice shall briefly set forth the nature of the proposed amendment or modification and shall state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by the Credit Provider and the Bond Owners. If, within 60 days, or such longer period as shall be prescribed

by the Issuer, following the mailing of such notice, the Credit Provider and the Owners of the requisite percentage in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such amendment or modification shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof; or in any manner to question the propriety of the execution thereof; or to enjoin or restrain the Trustee or the Issuer from executing or consenting to the same or from taking any action pursuant to the provisions thereof.

Section 10.03. Limitation Upon Amendments of Loan Agreement. Nothing contained in Sections 10.01 and 10.02 of this Indenture shall permit, or be construed as permitting, without the approval and consent of the Owners of all of the Bonds then Outstanding, (a) the extension of the time for any payment under the Loan Agreement, or a reduction in the amount of any such payment under the Loan Agreement, or (b) the payment to any person other than the Trustee and the Tender Agent as provided herein of any amount (except amounts due under Sections 4.4, 6.3 and 8.4 of the Loan Agreement) due under the Loan Agreement. No amendment of the Loan Agreement may be entered into without the Trustee and the Issuer first receiving an opinion of Bond Counsel to the effect that such amendment is authorized under this Indenture and the Act, and will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Bonds.

Section 10.04. Modifications of Credit Facility. The Credit Facility may not be modified without the prior written consent of 100% of the Owners of Bonds secured by the Credit Facility (except to correct any formal defects in the Credit Facility, which modification may be made with the consent of the Borrower and the Trustee, and without the consent of the Bond Owners), other than to (a) effect transfers thereof, (b) effect extensions thereof, (c) effect an increase in the annual interest rate used in determining the interest portion of the stated amount of the Credit Facility, (d) effect an increase the stated amount of the Credit Facility, (e) effect a change in the stated amount of the Credit Facility to include an amount sufficient to pay premium on the Bonds, or (f) effect reductions and reinstatements thereof, all in accordance with the terms of the Credit Facility as then in effect. Pursuant to the Loan Agreement, however, the Borrower has the right to obtain an Alternate Credit Facility without the consent of the Bond Owners. Notwithstanding the foregoing, the provisions of the Reimbursement Agreement (not including the provisions of the Credit Facility as an exhibit thereto) may be amended, modified or waived without the consent of the Owners of Bonds or the Trustee.

(End of Article X)

## **ARTICLE XI MISCELLANEOUS**

Section 11.01. Consents of Bond Owners. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by a Bond Owner may be in any number of concurrent writings of similar tenor, and may be signed or executed by such Bond Owner in person or by such Bond Owner's agent appointed in writing. The fact and date of the execution by any person of any such consent, request, direction, approval, objection or other instrument, or of the writing appointing any such agent, and of the ownership of a Bond, may be proved in any jurisdiction by the certificate of any officer who by law has the power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him or her the execution thereof, or by an affidavit of any witness to such execution, and if made in such manner shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument.

Section 11.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended, or shall be construed, to give to any person other than the parties hereto, the Tender Agent, the Credit Provider, the Borrower, the Remarketing Agent and the Owners of the Bonds, any legal or equitable right, remedy or claim under or with respect to this Indenture or any covenants, conditions and provisions herein contained. This Indenture and all of the covenants, conditions and provisions hereof are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Borrower, the Tender Agent, the Credit Provider, the Remarketing Agent and the Owners of the Bonds as herein provided.

Section 11.03. Severability. If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 11.04. Notices. Except as otherwise provided in this Indenture, all notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered or mailed by certified mail, postage prepaid, or when sent by telecopy (receipt confirmed by telephone) or telegram, addressed as follows:

- |      |                         |   |
|------|-------------------------|---|
| (i)  | If to the Issuer, at:   | Louisville/Jefferson County Metro<br>Government<br>444 S. 5th Street, Suite 600<br>Louisville, Kentucky 40202<br>Attention: Director, Mayor's Office of<br>Economic Development |
| (ii) | If to the Borrower, at: | Spalding University, Inc.<br>845 South 3 <sup>rd</sup> Street<br>Louisville, Kentucky 40203<br>Attention: President -   |

(iii) If to the Trustee, at: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: Corporate Trust Department

(iv) If to the Credit Provider, at: JPMorgan Chase Bank, N.A.  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: International Department

With a copy to: JPMorgan Chase Bank, N.A.  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: Commercial Loan  
Department

(v) If to the Remarketing Agent, at:

J.P. Morgan Securities Inc.  
10 South Dearborn Street, 32<sup>nd</sup> Floor  
Chase Tower, Mail Code IL1-0826  
Chicago, Illinois 60670  
Attention: \_\_\_\_\_  
Telephone: (312) 732-8893  
Telecopier: (312) 732-2400

J.P. Morgan Securities Inc.  
Mail Code NY1-K928  
270 Park Avenue – 6<sup>th</sup> Floor  
New York, New York 10017  
Attention: Short Term Trading Desk  
Telephone: 212-\_\_\_\_\_  
Facsimile: 212-\_\_\_\_\_

A duplicate copy of each notice given hereunder by either party hereto shall be given to the Issuer, the Trustee, the Tender Agent, the Remarketing Agent, the Credit Provider and the Borrower. If a Tender Agent is appointed under this Indenture, it shall notify the Trustee of the address to which notices, certificates or other communications shall be sent. Any person or entity listed above may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 11.05. Payments or Performance Due on Other Than Business Days.  
Except as specifically provided herein, if the last day for making any payment or taking any action, including, without limitation, exercising any remedy, under this Indenture falls on a day other than a Business Day, such payment may be made, or such action may be taken, on the next succeeding Business Day, and, if so made or taken, shall have the same effect as if made or taken on the date required by this Indenture. The amount of any payment due under this Indenture

shall not be affected because payment is made on a date other than the date specified in this Indenture pursuant to this Section.

Section 11.06. Execution of Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.07. Applicable Law. This Indenture shall be governed by and construed in accordance with the laws of the State; provided, however, that the rights, duties, immunities and standards of care relating to the Trustee shall be governed by and construed in accordance with the internal laws of the jurisdiction in which its designated corporate trust office is located.

Section 11.08. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred with any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Borrower (including Pledged Bonds and Borrower Bonds), or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Borrower shall be disregarded and deemed not to be Outstanding for purposes of any such determination (unless the Borrower owns all of the Bonds, in which event such Bonds shall be deemed to be Outstanding for purposes of any such determination).

Section 11.09. Provisions for Payment of Expenses. The Issuer shall not be obligated to execute any documents or take any other action under or pursuant to this Indenture, the Loan Agreement or any other document in connection with the Bonds unless and until provision for the payment of expenses of the Issuer (including without limitation reasonable attorneys fees) shall have been made. Provisions for expenses shall be deemed to have been made upon arrangements reasonably satisfactory to the Issuer for the provision of expenses being agreed upon by the Issuer and the party requesting such execution.

Section 11.10. Credit Provider Consents. Notwithstanding anything contained herein to the contrary, any required consent of the Credit Provider as provided herein shall not be effective unless such consent is in writing and is duly signed by the Credit Provider, and then only to the extent specifically set forth therein.

(End of Article XI)

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

LOUISVILLE/JEFFERSON COUNTY METRO  
GOVERNMENT

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
Metro Council Clerk

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

By: \_\_\_\_\_  
James T. Carey, Assistant County Attorney

*SIGNATURE PAGE OF THE TRUSTEE  
TO THE INDENTURE OF TRUST*

THE BANK OF NEW YORK TRUST  
COMPANY, N.A.,  
as Trustee

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A**  
**FORM OF BOND**

No. \_\_\_\_\_ \$ \_\_\_\_\_

**UNITED STATES OF AMERICA**  
**COMMONWEALTH OF KENTUCKY**

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**  
**VARIABLE RATE DEMAND ECONOMIC DEVELOPMENT**  
**REVENUE BOND, SERIES 2008**  
**(SPALDING UNIVERSITY, INC. PROJECT)**

<u>DATED DATE</u>	<u>MATURITY DATE</u>	<u>INITIAL MODE</u>	<u>CUSIP</u>
	_____ 1, 20__	Weekly	

REGISTERED OWNER:

PRINCIPAL AMOUNT: THIRTEEN MILLION FIVE HUNDRED THOUSAND  
(\$13,500,000) DOLLARS

THIS BOND IS SUBJECT TO MANDATORY TENDER FOR PURCHASE AT THE TIMES AND IN THE MANNER HEREINAFTER DESCRIBED, AND MUST BE SO TENDERED OR WILL BE DEEMED TO HAVE BEEN SO TENDERED UNDER CERTAIN CIRCUMSTANCES AS DESCRIBED HEREIN.

WHILE IN THE DAILY RATE MODE OR THE WEEKLY RATE MODE, THIS BOND SHALL BE PURCHASED ON THE DEMAND OF THE OWNER AT THE TIMES AND IN THE MANNER HEREINAFTER DESCRIBED.

The Louisville/Jefferson County Metro Government (the "Issuer"), a consolidated local government and political subdivision of the Commonwealth of Kentucky (the "State"), hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above on the Maturity Date specified above (or earlier as hereinafter provided), and to pay interest on the Principal Amount hereof from the Dated Date specified above at the rates per annum and on the dates set forth herein; provided, however, that such principal and interest are payable solely from the sources and in the manner herein after described, and as authorized and provided in Chapter 103 of the Kentucky Revised Statutes (the "Act").

No recourse shall be had for the payment of the principal of, premium, if any, or interest hereon or for any claims based thereon or upon any obligation, covenant or agreement contained herein or in the Indenture or the Loan Agreement (as such terms are hereinafter defined), against any past, present or future incorporator, officer, member, director, agent, attorney or employee of the Issuer, or any incorporator, officer, member, director, agent, attorney or employee of any successor organization, as such, either directly or through the Issuer or any successor organization, under any rule of law or equity, statute or constitution or by the



enforcement of any assessment or penalty or otherwise, and all such liability of any such official, officer, member, director, agent, attorney or employee as such is hereby expressly waived and released as a condition of and in consideration for the execution of the Indenture and the issuance of the Bonds.

THIS BOND AND THE INTEREST HEREON ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER. THE PRINCIPAL HEREOF, PREMIUM, IF ANY, AND INTEREST HEREON ARE PAYABLE SOLELY OUT OF THE REVENUES AND INCOME OF THE ISSUER DERIVED FROM OBLIGATIONS OF THE BORROWER UNDER THE LOAN AGREEMENT (AS SUCH TERMS ARE HEREINAFTER DEFINED), PROCEEDS FROM THE SALE OF THE BONDS AND INCOME FROM THE TEMPORARY INVESTMENT THEREOF AND PAYMENTS UNDER THE CREDIT FACILITY (AS HEREINAFTER DEFINED). THIS BOND AND THE PREMIUM, IF ANY, AND INTEREST HEREON DO NOT CONSTITUTE AN INDEBTEDNESS OR AN OBLIGATION, GENERAL OR MORAL, OR A PLEDGE OF THE FAITH AND CREDIT OF THE ISSUER, THE COMMONWEALTH OF KENTUCKY (THE "STATE") OR ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE PURVIEW OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OR PROVISION, AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS, IF ANY, OF THE ISSUER, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, BUT SHALL BE A SPECIAL, LIMITED OBLIGATION OF THE ISSUER, PAYABLE SOLELY FROM THE REVENUES AND INCOME DERIVED FROM PAYMENTS MADE BY THE BORROWER UNDER THE LOAN AGREEMENT AND PAYMENTS UNDER THE CREDIT FACILITY. NEITHER THE STATE, THE ISSUER, NOR ANY POLITICAL SUBDIVISION OR AGENCY OF THE STATE SHALL BE OBLIGATED TO PAY THE BONDS AND THE PREMIUM, IF ANY, OR THE INTEREST THEREON, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER, IF ANY, OF THE STATE, THE ISSUER OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY OF THE STATE IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON SUCH BONDS.

No covenant, agreement or obligation contained herein shall be deemed to be a covenant, agreement or obligation of any present or future official of the Issuer, or director, officer, member, employee, attorney or agent of the Issuer nor shall any officer thereof executing the Bonds be liable personally hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

This Bond is issued with the intent that the laws of the State will govern its construction.

The principal of, premium, if any, and interest on this Bond are payable in lawful money of the United States of America. The principal and premium, if any, payable upon maturity or earlier redemption of this Bond are payable when due upon the presentation and surrender hereof at the designated corporate trustee processing facility, located in Louisville, Kentucky, of \_\_\_\_\_, as trustee (the "Trustee"), or any successor. Each payment of interest on this Bond shall be payable to the Registered Owner hereof as shown on the registration books kept by the Trustee as bond registrar (the "Bond Registrar"), at the close of business on the Business Day (but, during an Adjustable Rate Period of more than 365

days or a Fixed Rate Period, the fifteenth day of the calendar month) next preceding the date on which such interest becomes due and payable (herein, a "Record Date"). Interest on this Bond shall be payable to the Registered Owner hereof by check or draft mailed by first class mail on the respective Interest Payment Dates (as hereinafter defined) to the address of such Registered Owner as shown on the books kept by the Trustee as Bond Registrar at the close of business on the relevant Record Date, or to such other address as is furnished in writing to the Trustee (in form satisfactory to the Trustee) by such Owner prior to such Record Date. Registered Owners of \$1,000,000 or more in aggregate principal amount of Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Trustee before the Record Date and by complying at the request of the Trustee with any reasonable requirements of the Trustee with respect to such wire transfers as are necessary to comply with any applicable provisions of Article IV of the Uniform Commercial Code of the State.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH SUBSEQUENT TO THE CERTIFICATE OF AUTHENTICATION BELOW, WHICH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF FULLY SET FORTH IN THE TEXT OF THIS BOND WRITTEN ABOVE.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee as Bond Registrar or the Tender Agent, if one has been appointed, or any successor to either.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signature of the Mayor and attested with the manual or facsimile signature of the Clerk of the Metro Council, all as of the date first above written.

LOUISVILLE/JEFFERSON COUNTY METRO  
GOVERNMENT

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
Metro Council Clerk

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

By: \_\_\_\_\_  
James T. Carey, Assistant County Attorney

## CERTIFICATE OF AUTHENTICATION

This Bond is hereby authenticated as required by Section 2.05 of the within-referenced Indenture of Trust.

\_\_\_\_\_,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

Date of Authentication: \_\_\_\_\_

This Bond is authorized and issued under and pursuant to authority conferred by the Act, a resolution adopted by the Issuer, and the Indenture of Trust, dated as of May 1, 2008 (the "Indenture"), between the Issuer and the Trustee. Certain terms used and not defined in this Bond are defined in the Indenture. This Bond is one of the Issuer's duly authorized Variable Rate Demand Industrial Building Revenue Bonds, Series 2008 (Spalding University, Inc. Project), issued in the aggregate principal amount of \$13,500,000 to provide funds to make a loan (the "Loan") to the Spalding University, Inc., a Kentucky nonprofit corporation (the "Borrower"), for the purpose of financing all or a portion of the costs to (a) redeem and retire the outstanding City of Shively, Kentucky Variable Rate Demand Educational Revenue Bonds, Series 2003, (b) refinance the purchase of the Breckinridge Building and finance a portion of the costs of renovating, improving and equipping such building for use by the Borrower, (c) renovate, expand and improve existing structures or purchase equipment consistent with the Borrower's Campus Master Plan and (d) pay the costs of issuance of the Bonds (the "Project").

As security for the payment of the Bonds, the Borrower has caused to be delivered to the Trustee on the Closing Date an irrevocable transferable direct pay letter of credit (the "Credit Facility") issued by JPMorgan Chase Bank, N.A. (the "Credit Provider"), against which the Trustee shall be entitled to draw, in accordance with the terms thereof, to pay, when and as due, the principal or purchase price of, and interest on, the Bonds. The Credit Provider has issued the Credit Facility pursuant to the Reimbursement Agreement dated the date of issuance of the Bonds (the "Reimbursement Agreement"), between the Credit Provider and the Borrower. The Trustee is required to draw moneys under the Credit Facility, by presenting drafts and certificates as provided therein, in an amount sufficient to pay the principal or purchase price of the Bond, plus an amount equal to up to 35 days' accrued interest thereon. Notwithstanding the foregoing, there shall be no draw upon the Credit Facility for payment with respect to any Pledged Bond (as defined in the Indenture), any Borrower Bond (as defined in the Indenture) or any Bond bearing interest at a Fixed Rate. The Credit Facility will expire on \_\_\_\_\_, 20\_\_, unless earlier terminated or unless extended in accordance with the terms thereof. The Borrower may, upon the conditions specified in the Loan Agreement dated as of May 1, 2008, between the Borrower and the Issuer (the "Loan Agreement"), provide for the delivery to the Trustee of an Alternate Credit Facility to replace the Credit Facility. The Bonds are subject to mandatory tender for purchase on each Conversion Date, on each Adjustable Rate Reset Date, on the date of delivery of an Alternate Credit Facility, and on the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to the Expiration of the Term of the Credit Facility (but in no event

less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility), as described in Part VI below.

The Bonds are all issued under and entitled to the benefit and security of the Indenture. Pursuant to the Indenture, the Issuer has pledged and assigned to the Trustee the Trust Estate referred to therein as security for its obligation to pay the principal of, premium, if any, and interest on the Bonds. Reference is made to the Indenture for a description of the Trust Estate and for the provisions thereof with respect to the nature and extent of the security granted by the Issuer to the Trustee thereunder, the rights, duties and obligations of the Issuer and the Trustee, the rights of the registered owners of the Bonds, the terms on which the Bonds are issued and secured, to all of which provisions, and to all other provisions of the Indenture, the Registered Owner hereof by the acceptance of this Bond assents. Unless the context clearly requires otherwise, all capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Indenture or the Loan Agreement.

The Issuer, upon the direction of the Borrower, has established a book-entry only system of registration for the Bonds. Except as specifically provided otherwise in the Indenture, an agent will be the registered owner and will hold this Bond on behalf of the beneficial owners hereof. By acceptance of a confirmation of purchase, delivery or transfer, the beneficial owners of this Bond shall be deemed to have agreed to this arrangement. The agent, as registered owner of this Bond, shall be treated as the owner hereof for all purposes.

All Bonds need not be in the same Mode simultaneously; however, each Bond may be in only one Mode at any time.

THE CREDIT FACILITY SHALL NOT BE AVAILABLE FOR ANY PAYMENT UNDER THIS BOND IF AND FOR SUCH TIME AS THIS BOND IS A PLEDGED BOND, A BORROWER BOND OR A FIXED RATE BOND WITHIN THE MEANING OF THE INDENTURE.

#### *Part I - Daily Rate Provisions*

The provisions of this Part I shall apply to each Bond bearing interest at a Daily Rate during a Daily Rate Period.

During a Daily Rate Period when the Bonds are held in a book-entry only system by a nominee of The Depository Trust Company (“DTC”) or its successor, each beneficial owner of a beneficial interest in a Bond bearing interest at a Daily Rate (other than any Pledged Bond or Borrower Bond) may demand the purchase of such beneficial owner’s beneficial interest (or portion thereof; provided that the portion thereof tendered is an Authorized Denomination; and provided, further, that the portion thereof retained is itself an Authorized Denomination) on any Business Day at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest thereon to the date of purchase, upon delivery to J.P. Morgan Securities Inc., as Remarketing Agent (the “Remarketing Agent”), at its office located at 10 South Dearborn Street, 32<sup>nd</sup> Floor, Chase Tower, Mail Code IL1-0826, Chicago, Illinois 60670, Attention: Municipal Bond Department, or at 270 Park Avenue, 6<sup>th</sup> Floor, Mail Code NY1-K104, New York, New York 10017, Attention: Short Term Trading Desk, by 9:00 a.m., New York City time, on any Business Day, of a written irrevocable notice, which will be effective upon receipt, which states

(a) the name and address of the beneficial owner, (b) the principal amount of such beneficial interest (and the portion thereof to be tendered, if less than the full principal amount thereof is to be tendered), and (c) the date on which such beneficial interest shall be so purchased, which date shall be a Business Day (and which date may be the date of the delivery of such notice to the Remarketing Agent, but only if delivery is accomplished by 9:00 a.m. New York City time on a Business Day). Such beneficial interest will be deemed to have been surrendered on the date specified in such notice.

During a Daily Rate Period and when a book-entry only system is not in effect, any Bond bearing interest at a Daily Rate (other than any Pledged Bond or Borrower Bond) or portion thereof (provided that the portion thereof tendered is an Authorized Denomination; and provided, further, that the portion thereof retained is itself an Authorized Denomination) that is not due shall be purchased on the demand of the registered owner thereof on any Business Day at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest thereon to the date of purchase, upon delivery to a tender agent appointed by the Trustee upon the direction of the Borrower (the "Tender Agent"), at the address of the Tender Agent filed with the Trustee, by 9:00 a.m., New York City time, on any Business Day, of the following:

(a) a written irrevocable notice, which will be effective upon receipt, which states (i) the name and address of the registered owner, (ii) the principal amount of such Bond (and the portion thereof to be tendered, if less than the full principal amount thereof is to be tendered) and the Bond number, (iii) the date on which such Bond shall be so purchased, which date shall be a Business Day (and which date may be the date of the delivery of such notice to the Tender Agent, but only if delivery is accomplished by 9:00 a.m. New York City time on a Business Day), and (iv) if the Bond is not delivered with such notice as permitted in paragraph (b) below, that the registered owner agrees to deliver the Bond (with all necessary endorsements and guarantees of signature) as specified in paragraph (b) below; and

(b) such Bond (with all necessary endorsements and guarantees of signature) attached to the aforesaid notice; provided, however, that such Bond shall be so purchased only if the Bond delivered to the Tender Agent shall conform in all respects to the description thereof in the aforesaid notice; and provided, further, that if the registered owner of the tendered Bond is an open-ended diversified management investment company (registered under the Investment Company Act of 1940, as amended), the delivery required under this paragraph (b) need not be made until 11:00 a.m., New York City time, on the date such Bond is to be purchased from such registered owner. If a registered owner described in the last proviso of the preceding sentence fails to deliver such Bond as required therein (an "Undelivered Bond"), such Bond shall nevertheless be deemed to have been delivered at the time and on the date required, and shall no longer be outstanding under the Indenture, and such registered owner thereafter shall be entitled only to the purchase price payable for such Bond on such required delivery date, and such purchase price shall be paid to such registered owner only upon surrender of such Bond to the Tender Agent.

IN THE EVENT OF A FAILURE BY AN OWNER OF BONDS TO DELIVER ITS BONDS ON OR PRIOR TO THE REQUIRED DELIVERY DATE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING INTEREST TO ACCRUE SUBSEQUENT TO THE PURCHASE DATE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY SUCH UNDELIVERED BONDS SHALL NO

LONGER BE ENTITLED TO THE BENEFIT AND SECURITY OF THE INDENTURE, EXCEPT FOR THE PURPOSE OF THE PAYMENT OF THE PURCHASE PRICE THEREOF; AND THE TRUSTEE WILL NOT REGISTER ANY FURTHER TRANSFERS OF SUCH UNDELIVERED BONDS.

While a Bond is in the Daily Rate Mode, interest on such Bond shall be paid on the first Business Day of each month, commencing on the first Business Day of the month next succeeding the Daily Rate Conversion Date, and on the Maturity Date specified above if such Bond is in the Daily Rate Mode at such time (each, a “Daily Rate Interest Payment Date”), and shall be computed on the basis of a 365- or 366-day year for the actual number of days elapsed. Interest on such Bond shall accrue from and including the first day of the Daily Rate Period to and including the day before the first Daily Rate Interest Payment Date of such Daily Rate Period, and thereafter interest on such Bond shall accrue from and including each Daily Rate Interest Payment Date to and including the day next preceding the next Daily Rate Interest Payment Date except as otherwise provided in the Indenture. Interest on the Bonds for each Interest Period shall be calculated as provided below and in the Indenture. During each Daily Rate Period, “Interest Period” shall mean the period from and including each day which is a Business Day to but excluding the next succeeding day which is a Business Day.

By 11:00 a.m., New York City time, on the first day of each Interest Period during a Daily Rate Period, the Remarketing Agent shall determine the Daily Rate applicable for such Interest Period. The Daily Rate for each Interest Period of a Daily Rate Period shall be calculated by the Remarketing Agent as the lowest rate which, in the sole judgment of the Remarketing Agent, having due regard for prevailing financial market conditions, is necessary to permit such Bond to be sold at a price of par plus accrued interest on the first day of the applicable Interest Period; provided that in no case shall the Daily Rate be set at a rate greater than the lesser of (i) 10.0% per annum or (ii) the annual interest rate used in determining the interest portion of the Credit Facility, if any (the “Maximum Rate”). In the event no Daily Rate is determined by the Remarketing Agent for an Interest Period during the Daily Rate Period, the Daily Rate for such Interest Period shall be the Daily Rate in effect for the immediately preceding Interest Period. The Remarketing Agent shall notify the Trustee, and the Trustee shall notify the Borrower, the Credit Provider and the Tender Agent, of the Daily Rate in accordance with the Indenture and each determination of a Daily Rate by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Tender Agent, the Credit Provider and the Bondholders.

During a Daily Rate Period, a Bond bearing interest at a Daily Rate shall be subject to optional redemption by the Issuer prior to maturity in whole or in part (and if in part in an amount of at least \$100,000 or integral multiples of \$5,000 in excess thereof; provided that no Bond may be redeemed in part if the principal amount to be outstanding following such partial redemption is not an Authorized Denomination of at least \$100,000) on any date selected by the Borrower, at the direction of the Borrower upon 35 days’ (or such shorter period of time approved by the Trustee) prior written notice to the Trustee, the Issuer, the Credit Provider and the Remarketing Agent, at a redemption price equal to the aggregate principal amount of the Bonds to be redeemed plus accrued interest thereon to the redemption date, without premium, to the extent of optional prepayments of the Loan in accordance with the Loan Agreement.

## *Part II - Weekly Rate Provisions*

The provisions of this Part II shall apply to each Bond bearing interest at a Weekly Rate during a Weekly Rate Period.

During a Weekly Rate Period when the Bonds are held in a book-entry only system by a nominee of DTC or its successor, each beneficial owner of a beneficial interest in a Bond bearing interest at a Weekly Rate (other than Pledged Bonds or Borrower Bonds) may demand the purchase of such beneficial owner's beneficial interest (or portion thereof; provided that the portion thereof tendered is an Authorized Denomination; and provided, further, that the portion thereof retained is itself an Authorized Denomination) on any Business Day at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest thereon to the date of purchase, upon delivery to the Remarketing Agent, at its office located at 10 South Dearborn Street, 32<sup>nd</sup> Floor, Chase Tower, Mail Code IL1-0826, Chicago, Illinois 60670, Attention: Municipal Bond Department, or at 270 Park Avenue, 6<sup>th</sup> Floor, Mail Code NY1-K104, New York, New York 10017, Attention: Short Term Trading Desk, on any Business Day, of a written irrevocable notice, which will be effective upon receipt, which states (a) the name and address of the beneficial owner, (b) the principal amount of such beneficial interest (and the portion thereof to be tendered, if less than the full principal amount thereof is to be tendered), and (c) the date on which such beneficial interest shall be so purchased, which date shall be a Business Day not prior to the seventh day next succeeding the date of the delivery of such notice to the Remarketing Agent. Such beneficial interest will be deemed to have been surrendered on the date specified in such notice.

During a Weekly Rate Period and when a book-entry only system is not in effect, any Bond bearing interest at a Weekly Rate (other than any Pledged Bond or Borrower Bond) or portion thereof (provided that the portion thereof tendered is an Authorized Denomination; and provided, further, that the portion thereof retained is itself an Authorized Denomination) that is not due shall be purchased on the demand of the registered owner thereof on any Business Day at a price equal to 100% of the principal amount thereof, plus accrued and unpaid interest thereon to the date of purchase, upon delivery to a tender agent appointed by the Trustee upon the direction of the Borrower (the "Tender Agent") at the address of the Tender Agent filed with the Trustee, on any Business Day, of the following:

(a) a written irrevocable notice, which will be effective upon receipt, which states (i) the name and address of the registered owner, (ii) the principal amount of such Bond (and the portion thereof to be tendered, if less than the full principal amount thereof is to be tendered) and the Bond number, (iii) the date on which such Bond shall be so purchased, which date shall be a Business Day not prior to the seventh day next succeeding the date of the delivery of such notice to the Tender Agent, and (iv) if the Bond is not delivered with such notice as permitted in paragraph (b) below, that the registered owner agrees to deliver the Bond (with all necessary endorsements and guarantees of signature) as specified in paragraph (b) below; and

(b) such Bond (with all necessary endorsements and guarantees of signature) attached to the aforesaid notice; provided, however, that such Bond shall be so purchased only if the Bond delivered to the Tender Agent shall conform in all respects to the description thereof in the aforesaid notice; and provided, further, that if the registered owner of the tendered Bond is an open-ended diversified management investment company (registered under the Investment

Company Act of 1940, as amended), the delivery required under this paragraph (b) need not be made until 11:00 a.m., New York City time, on the date such Bond is to be purchased from such registered owner. If a registered owner described in the last proviso of the preceding sentence fails to deliver such Bond as required therein (an “Undelivered Bond”), such Bond shall nevertheless be deemed to have been delivered at the time and on the date required, and shall no longer be outstanding under the Indenture, and such registered owner thereafter shall be entitled only to the purchase price payable for such Bond on such required delivery date, and such purchase price shall be paid to such registered owner only upon surrender of such Bond to the Tender Agent.

IN THE EVENT OF A FAILURE BY AN OWNER OF BONDS TO DELIVER ITS BONDS ON OR PRIOR TO THE REQUIRED DELIVERY DATE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING INTEREST TO ACCRUE SUBSEQUENT TO THE PURCHASE DATE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY SUCH UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFIT AND SECURITY OF THE INDENTURE, EXCEPT FOR THE PURPOSE OF THE PAYMENT OF THE PURCHASE PRICE THEREOF; AND THE TRUSTEE WILL NOT REGISTER ANY FURTHER TRANSFERS OF SUCH UNDELIVERED BONDS.

While a Bond is in the Weekly Rate Mode, interest on such Bond shall be paid on the first Business Day of each month, commencing, with respect to the initial Weekly Rate Period, on June 2, 2008 (and, with respect to each subsequent Weekly Rate Period, commencing on the first Business Day of the month next succeeding the Weekly Rate Conversion Date), and on the Maturity Date specified above if such Bond is in the Weekly Rate Mode at such time (each, a “Weekly Rate Interest Payment Date”), and shall be computed on the basis of a 365- or 366-day year for the actual number of days elapsed. Interest on such Bond shall accrue from and including the first day of the Weekly Rate Period to and including the day before the first Weekly Rate Interest Payment Date of such Weekly Rate Period, and thereafter interest on such Bond shall accrue from and including each Weekly Rate Interest Payment Date to and including the day next preceding the next Weekly Rate Interest Payment Date except as otherwise provided in the Indenture. The Weekly Rate for the initial Interest Period of a Weekly Rate Period shall be calculated by the Remarketing Agent on or prior to the first day of the Weekly Rate Period as provided below and in the Indenture. Interest on such Bond for each Interest Period subsequent to the initial Interest Period during a Weekly Rate Period shall be calculated as provided below and in the Indenture. During each Weekly Rate Period, “Interest Period” shall mean the period from and including the first day of the Weekly Rate Period through and including the following Wednesday, and, after the first Interest Period of each Weekly Rate Period, from and including Thursday of each week through and including the following Wednesday, whether or not such days are Business Days; provided, however, that if the scheduled rate change day for Bonds in the Weekly Rate Mode is changed to a day of the calendar week other than Wednesday as described in the Indenture, the Interest Period for Bonds in the Weekly Rate Mode shall mean the period from the Weekly Rate Conversion Date through and including the day immediately preceding such new rate change day, and, after the first Interest Period, the period from such new rate change day through and including the day immediately preceding the following rate change day, whether or not such days are Business Days.



On Wednesday (unless Wednesday is not a Business Day, then the next preceding Business Day) of each week during a Weekly Rate Period, with respect to each Interest Period after the initial Interest Period, the Remarketing Agent shall determine the Weekly Rate for the following or current Interest Period. The Weekly Rate for each Interest Period of a Weekly Rate Period shall be calculated by the Remarketing Agent as the lowest rate which, in the sole judgment of the Remarketing Agent, having due regard for prevailing financial market conditions, is necessary to permit such Bond to be sold at a price of par plus accrued interest on the first day of the applicable Interest Period; provided that in no case shall the Weekly Rate be set at a rate greater than the Maximum Rate. In the event no Weekly Rate is determined by the Remarketing Agent for an Interest Period, the Weekly Rate for such Interest Period shall be the Weekly Rate in effect for the immediately preceding Interest Period. In the event any such Bond shall commence to bear interest at a Weekly Rate as a result of the provisions described under Part III below, on the date that the Weekly Rate is so established, the Remarketing Agent shall follow the procedures for establishing a Weekly Rate for such Bond set forth in Section 2.02(C) of the Indenture and described above in this paragraph. In the event no such Weekly Rate is determined by the Remarketing Agent for the first week of such Weekly Rate Period established as a result of the provisions described under Part III below, the Weekly Rate for such week shall be the Adjustable Rate in effect for the immediately preceding Adjustable Rate Period. The Remarketing Agent shall notify the Trustee, and the Trustee shall notify the Borrower, the Credit Provider and the Tender Agent, of the Weekly Rate in accordance with the Indenture and each determination of a Weekly Rate by the Remarketing Agent shall be conclusive and binding upon the Issuer, the Borrower, the Trustee, the Credit Provider, the Tender Agent and the Bondholders.

The Indenture permits the Remarketing Agent to designate another day for determining the interest rate on the Bonds or initiating a new Weekly Rate under certain circumstances described therein.

During a Weekly Rate Period, a Bond bearing interest at a Weekly Rate shall be subject to optional redemption by the Issuer prior to maturity in whole or in part (and if in part in an amount of at least \$100,000 or integral multiples of \$5,000 in excess thereof; provided that no Bond may be redeemed in part if the principal amount to be outstanding following such partial redemption is not an Authorized Denomination of at least \$100,000) on any date selected by the Borrower, at the direction of the Borrower upon 35 days' prior written notice to the Trustee, the Issuer, the Credit Provider and the Remarketing Agent, at a redemption price equal to the aggregate principal amount of the Bonds to be redeemed plus accrued interest thereon to the redemption date, without premium, to the extent of optional prepayments of the Loan in accordance with the Loan Agreement.

### *Part III - Adjustable Rate Provisions*

The provisions of this Part III shall apply to each Bond bearing interest at an Adjustable Rate during an Adjustable Rate Period.

From and after each Adjustable Rate Conversion Date or Adjustable Rate Reset Date, the interest rate on each Bond shall be an Adjustable Rate as provided hereafter. If at the end of the then current Adjustable Rate Period, the Borrower does not elect and effect a conversion of any Bond from the Adjustable Rate Mode to another Mode, or a change or

continuation in the duration of the Adjustable Rate Period, that Bond shall: (a) if it is in an Adjustable Rate Period of 365 days or less, convert to the Weekly Rate Mode; (b) if it is in an Adjustable Rate Period of 366 days or more and an opinion of Bond Counsel is furnished to the Trustee stating that such change is authorized or permitted by the Indenture, the Loan Agreement and the Act and that such change will not adversely affect the exclusion from gross income for purposes of federal income taxation of the interest on the Bonds, convert to the Weekly Rate Mode; or (c) if it is in an Adjustable Rate Period of 366 days or more and such Bond Counsel opinion is not so furnished, remain in an Adjustable Rate Mode with an Adjustable Rate Period of 366 days; provided, however, that if the period of time between the applicable Adjustable Rate Reset Date and the maturity date of the Bonds is less than 366 days, then the new Rate Period shall end on the maturity date of such Bonds.

Upon conversion to the Adjustable Rate Mode on an Adjustable Rate Conversion Date, or the setting of a new Adjustable Rate on an Adjustable Rate Reset Date, the Adjustable Rate shall equal the lowest rate which the Remarketing Agent, in its sole judgment having due regard for prevailing financial market conditions, shall determine will permit the remarketing of such Bond on the Adjustable Rate Conversion Date or Adjustable Rate Reset Date, as appropriate, at par, which interest rate and the duration of such Adjustable Rate Period shall be established by the Remarketing Agent no later than 12:00 noon, New York City time, on the Adjustable Rate Conversion Date or Adjustable Rate Reset Date, as appropriate; provided, however, that in no event shall the Adjustable Rate be set at a rate greater than the Maximum Rate. In the event no Adjustable Rate is determined by the Remarketing Agent for an Adjustable Rate Period the duration of which has been established as provided above, the Adjustable Rate for such Adjustable Rate Period shall be the Adjustable Rate in effect for the immediately preceding Adjustable Rate Period. The Remarketing Agent shall notify the Trustee, and the Trustee shall notify the Credit Provider, the Tender Agent and the Borrower, of the Adjustable Rate and the duration of such Adjustable Rate Period, and such Adjustable Rate shall be conclusive and binding upon the Tender Agent, the Issuer, the Borrower, the Trustee, the Credit Provider and the Bondholders.

While in the Adjustable Rate Mode, interest on such Bond shall be paid, with respect to any Bond in an Adjustable Rate Period of 365 days or less, on the day following the last day of such Adjustable Rate Period; with respect to any Bond in an Adjustable Rate Period of more than 365 days, on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, commencing on the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 next succeeding the Adjustable Rate Conversion Date; on the Adjustable Rate Reset Date; or on the Maturity Date specified above if such Bond is in the Adjustable Rate Mode at such time (and if the conditions specified in Section 2.02(D) of the Indenture are met) (each, an “Adjustable Rate Interest Payment Date”), and shall be computed, while any Bond is in an Adjustable Rate Period of 365 days or less, on the basis of a 365/366-day year, for actual number of days lapsed, and, while any Bond is in an Adjustable Rate Period of more than 365 days, on the basis of a 360-day year consisting of twelve 30-day months.

During an Adjustable Rate Period, no Bondholders shall have the right to tender such Bonds for optional purchase pursuant to Article III of the Indenture.

During an Adjustable Rate Period, a Bond bearing interest at an Adjustable Rate shall be subject to redemption by the Issuer prior to maturity only as follows:

(a) The Bonds are subject to extraordinary redemption in whole on any date selected by the Borrower, at a redemption price equal to the aggregate principal amount of the Bonds plus accrued interest thereon to the redemption date, without premium, upon the occurrence of certain events described in Section 9.4 of the Loan Agreement if the Borrower elects to prepay a like amount under the Loan Agreement.

(b) Each Bond is subject to optional redemption in whole or in part (and if in part in an amount of at least \$100,000 or in integral multiples of \$5,000 in excess thereof; provided that no Bond may be redeemed in part if the principal amount to be outstanding following such partial redemption is not an Authorized Denomination of at least \$100,000) on any date selected by the Borrower, at the direction of the Borrower upon 35 days' prior written notice to the Trustee, the Issuer, the Credit Provider and the Remarketing Agent, as set forth below, to the extent of optional prepayments of the Loan in accordance with the Loan Agreement, at the applicable redemption price (expressed as a percentage of the principal amount to be redeemed) relating to the length of the Adjustable Rate Period as set forth below, plus accrued interest thereon to the date of redemption:

<u>Length of Period</u> <u>(Expressed in Whole Years)*</u>	<u>Dates on Which Redemption is</u> <u>Allowed and redemption Prices**</u>
greater than 12	after 10 years at 102%, declining by 1% annually to 100%
less than or equal to 12 and greater than 4	noncallable until two years prior to the end of the Adjustable Rate Period, then 102%, declining by 1% annually to 100%
less than or equal to 4	NOT SUBJECT TO OPTIONAL REDEMPTION

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\* The Adjustable Rate Period shall be rounded up to the next whole year if otherwise a partial year.

\*\* Measured from the first day of the Adjustable Rate Period.

Notwithstanding the schedule shown above, the Borrower may direct the Issuer to redeem Bonds prior to maturity, and the Issuer shall redeem such Bonds according to another schedule, if, with the notice of redemption, the Borrower also delivers to the Issuer and the Trustee an opinion of Bond Counsel to the effect that the new schedule of redemption will not adversely affect the validity or enforceability of the Bonds in accordance with their terms, and will not have an adverse effect on any exemption from federal income taxation to which the interest on the Bonds would otherwise be entitled.

(c) Notwithstanding the limitation set forth in paragraph (b) above, each Bond in an Adjustable Rate Mode shall be subject to optional redemption by the Issuer prior to maturity, in whole or in part (and if in part in Authorized Denominations), on the last Adjustable Rate Interest Payment Date for the Adjustable Rate Period in which such Bond then operates, at the direction of the Borrower upon not less than 35 days' prior written notice to the Trustee, the

Issuer, the Credit Provider and the Remarketing Agent, at a redemption price equal to 100% of the aggregate principal amount of such Bonds to be redeemed plus interest thereon to the redemption date, without premium, to the extent of optional prepayments of the Note in accordance with the Loan Agreement.

#### *Part IV - Fixed Rate Provisions*

The provisions of this Part IV shall apply to each Bond bearing interest at a Fixed Rate during the Fixed Rate Period.

From and after the Fixed Rate Conversion Date with respect to any Bond, the interest rate on such Bond shall be the Fixed Rate as provided hereafter. The Fixed Rate shall be established in accordance with Section 2.02 (E) of the Indenture, and shall be set forth in the firm underwriting or purchase contract described in Section 2.02(F)(d)(ii) of the Indenture. In no event shall the Fixed Rate be set at a rate greater than 10.0% per annum. Such Fixed Rate shall be conclusive and binding upon the Tender Agent, the Issuer, the Borrower, the Trustee and the Bondholders.

Except as provided below, upon conversion of the interest rate on any Bonds to a Fixed Interest Rate, all such Bonds then being converted shall mature serially on \_\_\_\_\_ 1 of each year through and including final maturity in accordance with the terms specified below. Upon conversion, the firm of bond underwriters or recognized institutional investors who agree to underwrite or purchase such Bonds in accordance with Section 2.02(F)(d)(ii) of the Indenture shall deliver to the Borrower and the Trustee a certificate which includes (a) a schedule specifying the principal amount of Bonds maturing or to be called for mandatory sinking fund redemption on \_\_\_\_\_ 1 of each year, commencing on the first \_\_\_\_\_ 1 occurring after the Fixed Rate Conversion Date, through and including final maturity, and (b) a schedule specifying the interest on such Bonds to be paid on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing with the first \_\_\_\_\_ 1 or \_\_\_\_\_ 1 occurring after the Fixed Rate Conversion Date, through and including \_\_\_\_\_ 1, 20\_\_\_. In determining the amount of interest and principal that shall be payable on such dates, such firm of bond underwriters or institutional investors shall use the following guidelines:

(a) Such firm of bond underwriters or institutional investors shall set the interest rate on each Bond then being converted to be the lowest interest rate that will enable such Bond upon conversion to be remarketed at par, assuming that all Bonds then being converted will mature serially on \_\_\_\_\_ 1 of each year through and including final maturity, and taking into account the fact that such Bond shall mature on a particular \_\_\_\_\_ 1 through and including final maturity in accordance with (b) below, all such Bonds shall pay interest semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, all such Bonds maturing on a particular \_\_\_\_\_ 1 shall bear interest at the same rate, and all such Bonds shall only be remarketed at par; and

(b) The schedule of principal payments shall be set to achieve annual level debt service (including both principal and interest) for all remaining Bond Years or portions thereof and to the extent such annual level debt service cannot be exactly achieved due to the denomination of the Bonds then being converted, such annual level debt service shall be achieved by rounding down all principal amounts to the next \$5,000 denomination if the

Authorized Denomination for such Bonds is \$5,000 and any integral multiple thereof, and rounding up the last principal payment; provided, that the schedule of principal payments need not be set as described above if the Borrower shall provide to the Issuer, the Trustee and such firm of bond underwriters or institutional investors an opinion of Bond Counsel to the effect that the setting of an alternative schedule of principal payments will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

With respect to those Bonds, if any, that mature on or after the eleventh \_\_\_\_\_ 1 occurring after the Fixed Rate Conversion Date therefor, if, after establishing the interest rates and the schedule of principal payments for the Bonds then being converted in accordance with the above guidelines, Bonds maturing in three or more consecutive years bear interest at the same per annum interest rate, such Bonds shall no longer be deemed to mature serially but shall be deemed to mature on the \_\_\_\_\_ 1 of the last consecutive year that Bonds bearing such interest rate were to have matured serially and shall be subject to mandatory sinking fund redemption prior to maturity on \_\_\_\_\_ 1 in accordance with the principal payment schedule established therefor in accordance with the above guidelines.

If the designation referred to above cannot be made and the opinion of Bond Counsel described in the immediately succeeding paragraph has not otherwise been delivered to the Trustee and the Issuer by the Borrower, then no conversion shall be effected.

The foregoing notwithstanding, another method of providing for payment of principal on the Bonds after the Fixed Rate Conversion Date may be established by the firm of bond underwriters or institutional investors underwriting or purchasing such Bonds if there is delivered to the Trustee and the Issuer by the Borrower an opinion of Bond Counsel to the effect that utilization of such other method will not adversely affect the validity or enforceability in accordance with their terms of any Bonds or any exemption from federal income taxation to which interest on the Bonds would otherwise be entitled.

While in the Fixed Rate Mode, interest on such Bonds shall be paid on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 (each, a "Fixed Rate Interest Payment Date"), commencing on the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 next succeeding the Fixed Rate Conversion Date, and shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

During the Fixed Rate Period, no Bondholder shall have the right to tender its Bond for optional purchase pursuant to Article III of the Indenture.

During the Fixed Rate Period, such Bond shall be subject to redemption by the Issuer prior to maturity only as follows:

(i) The Bonds are subject to extraordinary redemption in whole on any date selected by the Borrower, at a redemption price equal to the aggregate principal amount of the Bonds plus accrued interest thereon to the redemption date, without premium, upon the occurrence of certain events described in Section 9.4 of the Loan Agreement if the Borrower elects to prepay a like amount under the Loan Agreement.

(ii) Each Bond is subject to optional redemption in whole or in part (and if in part in Authorized Denominations; provided that no Bond may be redeemed in part if the principal amount to be outstanding following such partial redemption is not an

Authorized Denomination) on any date selected by the Borrower, at the direction of the Borrower upon 35 days' prior written notice to the Trustee and the Issuer, as set forth below, to the extent of optional prepayments of the Loan in accordance with the Loan Agreement, at the applicable redemption price (expressed as a percentage of the principal amount to be redeemed) relating to the length of the Fixed Rate Period set forth below, plus accrued interest thereon to the date of redemption:

LENGTH OF PERIOD (EXPRESSED IN WHOLE YEARS)* PRICES**	DATES ON WHICH REDEMPTION IS ALLOWED AND REDEMPTION PRICES**
greater than 12	after 10 years at 102%, declining by 1% annually to 100%
less than or equal to 12 and greater than 4	noncallable until two years prior to maturity, then 102%, declining by 1% annually to 100%
less than or equal to 4	NOT SUBJECT TO OPTIONAL REDEMPTION

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\* The Fixed Rate Period shall be rounded up to the next whole year if otherwise a partial year.

\*\* Measured from the first day of the Fixed Rate Period.

Notwithstanding the schedule shown above, the Borrower may direct the Issuer to redeem Bonds prior to maturity, and the Issuer shall redeem such Bonds according to another schedule, if, with the notice of redemption, the Borrower also delivers to the Issuer and the Trustee an opinion of Bond Counsel to the effect that the new schedule of redemption will not adversely affect the validity or enforceability of the Bonds in accordance with their terms, and will not have an adverse effect on any exemption from federal income taxation to which the interest on the Bonds would otherwise be entitled.

(c) Bonds in the Fixed Rate Mode that are subject to mandatory sinking fund redemption prior to maturity as described above shall be selected for redemption by the Trustee by lot within the maturity to be so redeemed, and shall be redeemed at a redemption price equal to the aggregate principal amount of such Bonds being redeemed plus accrued interest thereon to the redemption date, without premium.

#### *Part V - Conversion Provisions*

The provisions of this Part V shall apply to each Bond with respect to (a) conversion from the Daily Rate Mode to the Adjustable Rate Mode, the Weekly Rate Mode or the Fixed Rate Mode, (b) conversion from the Weekly Rate Mode to the Daily Rate Mode, the Adjustable Rate Mode or the Fixed Rate Mode, (c) conversion from the Adjustable Rate Mode to

the Daily Rate Mode, the Weekly Rate Mode or the Fixed Rate Mode, or (d) conversion from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration within the Adjustable Rate Mode. No Bond shall be converted from one Mode to another Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration if an Event of Default shall have occurred and be continuing under the Indenture.

The interest rate on a Bond shall be converted from one Mode to another Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration within the Adjustable Rate Mode, if the Borrower shall notify the Trustee of its irrevocable election to effect such conversion, and together with such notice specifies, the identification of the Bonds to be converted, the Interest Payment Date on which such conversion is to take place, and, if such conversion is to or within the Adjustable Rate Mode, the Adjustable Rate Interest Payment Date upon which such Adjustable Rate Period is to terminate (which Adjustable Rate Period shall be of at least 30 days duration). Upon receipt by the Trustee of such notice from the Borrower, the Trustee shall immediately cause the same information contained in such notice to be delivered to the Tender Agent, the Remarketing Agent, the Issuer and the Credit Provider. An opinion of Bond Counsel (which opinion shall be confirmed on the Conversion Date or Adjustable Rate Reset Date, as appropriate) stating that such conversion is authorized or permitted by the Indenture, the Loan Agreement and the Act, and will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Bonds shall be delivered with such notice when the conversion is: (a) from a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less in duration to an Adjustable Rate Mode with an Adjustable Rate Period in excess of 365 days in duration; or (b) from an Adjustable Rate Mode with an Adjustable Rate Period in excess of 365 days in duration to an Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less in duration, a Daily Rate Mode or a Weekly Rate Mode; or (c) from a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode to a Fixed Rate Mode. If the conversion is to a Fixed Rate Mode from any other Mode, a firm underwriting or purchase contract from a recognized firm of bond underwriters or recognized institutional investors to underwrite or purchase all Bonds that are to be converted to a Fixed Rate Mode at a price of 100% of the principal amount thereof at an agreed upon interest rate (not in excess of 10.0% per annum) for each Bond to be so converted, which such underwriter or institutional investor certifies is the lowest rate that will permit such Bond to be sold at par on the first day of the Fixed Rate Period and which contract shall contain the maturity schedule, and, if applicable, the mandatory sinking fund redemption schedule, prepared in accordance with Section 2.02(E) of the Indenture, shall also be delivered with such notice. The conversion date for any Bond to be converted from one Mode to another Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, will be the Interest Payment Date specified by the Borrower in its notice of election to effect such conversion, which date will be not less than 30 days succeeding receipt by the Trustee, the Tender Agent, the Credit Provider and the Remarketing Agent of such notice from the Borrower of such conversion. Each Bond (other than a Pledged Bond or a Borrower Bond) shall be subject to mandatory tender and purchase on each Conversion Date or Adjustable Rate Reset Date, as appropriate.

In the event, with respect to any Bond, any condition precedent to the conversion from one Mode to another Mode, or from an Adjustable Rate Period of one duration to an Adjustable Rate Period of another duration, is not fulfilled (including, but not limited to, the establishment of the appropriate interest rate for such Mode or Adjustable Rate Period), the

mandatory tender shall nonetheless be effectuated. After the mandatory tender date, such Bond shall continue in its then current Mode for the same period and bear the same interest rate as was last borne by such Bond in such Mode; provided, however, in the case when the then current Mode is the Adjustable Rate Mode, such Bond shall be in the Mode and at the interest rate established pursuant to Section 2.02(D) of the Indenture. In the event any Bond is not remarketed on the mandatory tender date and becomes a Pledged Bond or a Borrower Bond, the Remarketing Agent shall be entitled to determine a new Daily Rate, Weekly Rate or Adjustable Rate relating to such Bond, as appropriate (under the conditions and subject to the limitations provided above), effective on such date as the Remarketing Agent is able to remarket such Pledged Bond or Borrower Bond then in such Mode at a price of par plus accrued interest to such delivery date; but in any event such new rate shall not be set at a rate in excess of the Maximum Rate. The determination of the new Daily Rate, Weekly Rate or Adjustable Rate, as appropriate, by the Remarketing Agent shall be conclusive and binding on the Issuer, the Borrower, the Trustee, the Credit Provider, the Tender Agent and the Bondholders.

The Borrower shall cause to be on deposit with the Trustee, prior to each Conversion Date (other than a Fixed Rate Conversion Date) or Adjustable Rate Reset Date, as appropriate, a Credit Facility that complies with the provisions of Section 4.3(b) of the Loan Agreement. Each Credit Facility shall require the issuer thereof to pay, upon presentation of drafts and certificates required therein, to the Trustee, in accordance with the terms thereof, up to (a) an amount equal to the aggregate principal amount of Bonds then outstanding supported by such Credit Facility, whether at maturity, upon redemption, upon purchase or otherwise, plus (b) an amount equal to at least 35 days' accrued and unpaid interest on all outstanding Bonds supported by such Credit Facility during the Daily Rate Period, Weekly Rate Period or Adjustable Rate Period, as applicable, at an assumed rate per annum established in such Credit Facility and no greater than 10.0% per annum. At the request of the Borrower, such Credit Facility may also require the issuer thereof to pay an amount equal to the maximum optional redemption premium payable on the Bonds supported by such Credit Facility subsequent to the Adjustable Rate Conversion Date or Adjustable Rate Reset Date. All references to "Alternate Credit Facility," "Credit Provider," "Credit Facility" and "Reimbursement Agreement" shall be of no effect at any time that no Credit Facility is outstanding and no obligations of the Borrower to the Credit Provider remain outstanding under the Reimbursement Agreement. At all times while a Bond is in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode, such Bond shall be entitled to both credit support and liquidity support. A Credit Facility may be issued to provide credit support, liquidity support or both to one, some or all of the Bonds.

At least 30 days prior to each Conversion Date or Adjustable Rate Reset Date, as appropriate, the Trustee shall give to each affected Bondholder notice by facsimile, first class or certified mail stating: (a) the Conversion Date or Adjustable Rate Reset Date, as appropriate; and (b) that on the Conversion Date or Adjustable Rate Reset Date, as appropriate, such Bond is subject to mandatory tender and purchase (or, if the Bonds are held in a book-entry only system, that the beneficial interests in the affected Bonds are subject to mandatory tender for purchase). In addition, if a book-entry only system is not in effect, the notice shall further state: (a) that any affected owner who has not tendered Bonds for purchase on the mandatory tender date will be deemed to have tendered its Bonds for purchase on such date; and (b) that any Bond not delivered to the Tender Agent on or prior to the mandatory tender date (an "Undelivered Bond"), for which there has been irrevocably deposited in trust with the Trustee or the Tender Agent on or prior to the mandatory tender date an amount of money sufficient to pay the purchase price of



such Undelivered Bond on the mandatory tender date, shall be deemed to have been so purchased at the price of par plus accrued interest as of such date, and such Bond shall no longer be considered to be outstanding for purposes of the Indenture and shall no longer be entitled to the benefits of the Indenture, except for the payment of the purchase price thereof (and no interest shall accrue thereon subsequent to the mandatory tender date). IN THE EVENT OF A FAILURE BY AN OWNER OF BONDS TO DELIVER ITS BONDS ON OR PRIOR TO THE CONVERSION DATE OR ADJUSTABLE RATE RESET DATE, AS APPROPRIATE, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE SUBSEQUENT TO THE CONVERSION DATE OR ADJUSTABLE RATE RESET DATE, AS APPROPRIATE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFIT AND SECURITY OF THE INDENTURE, EXCEPT FOR THE PURPOSE OF THE PAYMENT OF THE PURCHASE PRICE THEREOF; AND THE TRUSTEE WILL NOT REGISTER ANY FURTHER TRANSFERS OF SUCH UNDELIVERED BONDS.

#### *Part VI - Optional and Mandatory Tender for Purchase*

The provisions of this Part VI shall apply with respect to each Bond which is subject to optional and mandatory tender for purchase. Bonds in a Daily Rate Mode or a Weekly Rate Mode may be optionally tendered for purchase as described in Parts I and II above. The Bonds in an Adjustable Rate Mode or the Fixed Rate Mode are not subject to optional tender for purchase. The Bonds in a Daily Rate Mode, a Weekly Rate Mode and an Adjustable Rate Mode are subject to mandatory tender for purchase on each Conversion Date and each Adjustable Rate Reset Date as described in Part V above, and also on the date of delivery of an Alternate Credit Facility. The Bonds in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode (other than Pledged Bonds and Borrower Bonds) are also subject to mandatory tender for purchase on the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to the Expiration of the Term of the Credit Facility (but in no event less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility). The Bonds optionally or mandatorily tendered for purchase shall be purchased at the price of 100% of the principal amount thereof, plus accrued and unpaid interest thereon to the date of purchase.

At least 30 days prior to each Conversion Date, Adjustable Rate Reset Date, and date of delivery of an Alternate Credit Facility, the Trustee shall give notice as required by the Indenture. At least 30 days prior to the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to either the Expiration of the Term of the Credit Facility, the Trustee shall give to each affected Bondholder notice by facsimile, first class or certified mail stating: (a) the last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate, prior to either the Expiration of the Term of the Credit Facility; (b) that on such last Daily Rate Interest Payment Date, Weekly Rate Interest Payment Date or Adjustable Rate Interest Payment Date, as appropriate (but in no event less than two (2) Business Days prior to the Expiration of the Term of the Credit Facility), such Bond is subject to mandatory tender and purchase (or, if the Bonds are held in a book-entry only system, that the beneficial interests in the affected Bonds are subject to mandatory tender for purchase); and (c) the rating, if any, applicable to the Bonds after delivery of any Alternate Credit Facility. In addition, if a

book-entry only system is not in effect, the notice shall further state: (a) that any affected owner who has not tendered Bonds for purchase on the mandatory tender date will be deemed to have tendered its Bonds for purchase on such date; and (b) that any Bond not delivered to the Tender Agent on or prior to the mandatory tender date (an “Undelivered Bond”), for which there has been irrevocably deposited in trust with the Trustee or the Tender Agent on or prior to the mandatory tender date an amount of money sufficient to pay the purchase price of such Undelivered Bond on the mandatory tender date, shall be deemed to have been so purchased at the price of par plus accrued interest as of such date, and such Bond shall no longer be considered to be outstanding for purposes of the Indenture and shall no longer be entitled to the benefits of the Indenture, except for the payment of the purchase price thereof (and no interest shall accrue thereon subsequent to the mandatory tender date). IN THE EVENT OF A FAILURE BY AN OWNER OF BONDS TO DELIVER ITS BONDS ON OR PRIOR TO THE CONVERSION DATE, ADJUSTABLE RATE RESET DATE, OR DATE OF DELIVERY OF AN ALTERNATE CREDIT FACILITY, OR ON OR PRIOR TO THE LAST DAILY RATE INTEREST PAYMENT DATE, WEEKLY RATE INTEREST PAYMENT DATE OR ADJUSTABLE RATE INTEREST PAYMENT DATE, AS APPROPRIATE, PRIOR TO THE EXPIRATION OF THE TERM OF THE CREDIT FACILITY, SAID OWNER SHALL NOT BE ENTITLED TO ANY PAYMENT (INCLUDING ANY INTEREST TO ACCRUE SUBSEQUENT TO SUCH CONVERSION DATE, ADJUSTABLE RATE RESET DATE OR DATE OF DELIVERY OF AN ALTERNATE CREDIT FACILITY, OR SUBSEQUENT TO SUCH LAST DAILY RATE INTEREST PAYMENT DATE, WEEKLY RATE INTEREST PAYMENT DATE OR ADJUSTABLE RATE INTEREST PAYMENT DATE, AS APPROPRIATE) OTHER THAN THE PURCHASE PRICE FOR SUCH UNDELIVERED BONDS, AND ANY UNDELIVERED BONDS SHALL NO LONGER BE ENTITLED TO THE BENEFIT AND SECURITY OF THE INDENTURE, EXCEPT FOR THE PURPOSE OF THE PAYMENT OF THE PURCHASE PRICE THEREOF; AND THE TRUSTEE WILL NOT REGISTER ANY FURTHER TRANSFERS OF SUCH UNDELIVERED BONDS.

Bonds may be redeemed in whole or in part on any mandatory tender date.

#### *Part VII - General Provisions*

The provisions of this Part VII shall apply at all times from and after the date of issuance of this Bond.

Except during such period of time as the Bonds are held under the Issuer’s book-entry only system, or as described above with respect to demands for purchase during a Daily Rate Period or a Weekly Rate Period, the ownership of this Bond may be transferred (in an amount which is an Authorized Denomination; provided that the portion thereof retained is itself an Authorized Denomination) only upon presentation and surrender of this Bond at the designated corporate trust operations office of the Trustee as Bond Registrar, together with an assignment duly executed by the Registered Owner hereof or its duly authorized attorney-in-fact in such form as shall be satisfactory to the Trustee, and subject to the provisions made therefor in the Indenture. The Bonds may be exchanged at the designated corporate trust operations office of the Trustee for a like aggregate principal amount of Bonds of Authorized Denominations. The Trustee shall not be required to make any such transfer or exchange of any Bond during the three Business Days immediately preceding the selection of Bonds for redemption or, with respect to a Bond, after such Bond or any portion thereof has been selected for redemption.

Authorized Denomination shall mean: (a) for any Bond in the Daily Rate Mode, the Weekly Rate Mode, or the Adjustable Rate Mode with an Adjustable Rate Period of 365 days or less, the denomination of \$100,000 or any integral multiple of \$5,000 in excess thereof; and (b) for any Bond in the Adjustable Rate Mode with an Adjustable Rate Period of more than 365 days, or the Fixed Rate Mode, the denomination of \$5,000 or any integral multiple thereof.

Not less than 30 nor more than 45 days prior to any redemption date, the Trustee shall cause notice of the call for redemption, identifying each Bond or portion thereof to be redeemed, given in the name of the Issuer, to be sent by first class certified mail, postage prepaid, to the registered owner of each Bond to be redeemed at the address of such registered owner shown on the books kept by the Trustee as Bond Registrar. Failure to give such notice or any defect therein with respect to a Bond shall not affect the validity of any proceedings for the redemption of the other Bonds. By the date fixed for any such redemption, due provision shall be made with the Trustee for the payment of the principal of, premium, if any, and interest on the Bonds to be redeemed on the date of redemption. If notice of redemption is given and if due provision for payment of the redemption price is made, all as provided in the Indenture (including under the Credit Facility), the Bonds or portions thereof which are to be redeemed shall not bear interest after the date fixed for redemption, and shall not be entitled to any benefit or security under the Indenture, except for the right of the registered owner to receive the principal thereof, and premium and accrued interest thereon, out of the funds provided for such payment.

Upon the occurrence of a Determination of Taxability, as defined in the Indenture, the Bonds are subject to mandatory redemption in whole at a redemption price equal to 100% of the outstanding principal amount thereof, plus interest accrued to the redemption date, at the earliest practicable date selected by the Trustee, after consultation with the Borrower, but in no event later than 45 days following the Trustee's notification of the Determination of Taxability. The occurrence of a Determination of Taxability with respect to the Bonds will not constitute an Event of Default under the Indenture.

Provisions may be made for the payment of amounts represented by the Bonds as provided in the Indenture, in which event all liability of the Issuer to the registered owners of the applicable Bonds for the payment of such Bonds shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds (but only for the period specified and as provided in the Indenture), without liability for interest thereon, for the benefit of the registered owners of such Bonds, who shall thereafter be restricted exclusively to such funds for any claims of whatever nature under the Indenture or on, or with respect to, said Bonds.

It is hereby certified and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, done and have existed in accordance with law; that the Bonds are special, limited obligations of the Issuer; and that the principal of, premium, if any, and interest on the Bonds are payable from and secured by the properties, revenues and income that constitute a part of the Trust Estate and, in the case of principal and interest (but not premium payable upon the optional redemption of Bonds unless the Credit Facility provides for such), the

Credit Facility; provided, however, that Pledged Bonds and Borrower Bonds shall not be payable from or secured by the Credit Facility.

The Bonds are secured by the Indenture, whereunder the Trustee undertakes to enforce the rights of the owners of the Bonds and to perform other duties to the extent and under the conditions stated in the Indenture. In case an Event of Default shall occur, the principal of and interest on the Bonds then outstanding may, and, under certain circumstances, shall, be declared to be due and payable immediately upon the conditions and in the manner provided in the Indenture. Under the circumstances provided in the Indenture, the Trustee may in its discretion, with the consent of the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility), and upon written direction of the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility) shall, and upon written request of the registered owners of a majority in aggregate principal amount of the Bonds then outstanding, with the written consent of the Credit Provider (if the Credit Provider has not failed to honor a properly presented and conforming drawing under the Credit Facility) shall, waive any Event of Default and its consequences; provided, however, that an Event of Default arising from (a) a default in the payment of the principal or purchase price of, premium, if any, or interest on the Bonds, (b) notice by the Credit Provider to the Trustee that an event of default under the Reimbursement Agreement and the Credit Provider is terminating its Credit Facility or (c) the failure to pay principal or purchase price of or interest on Bonds in a Daily Rate Mode, a Weekly Rate Mode or an Adjustable Rate Mode with moneys drawn under the Credit Facility or Seasoned Funds may not be so waived by the Trustee without the written consent of the registered owners of all of the Bonds then outstanding, and the prior full reinstatement of amounts available to be drawn under the Credit Facility. The registered owners of the Bonds shall have no right to institute any action, suit or proceeding at law or in equity to enforce the Indenture, except as provided in the Indenture; provided, however, that nothing in the Indenture shall affect or impair the right of the registered owner of any Bond to enforce the payment of the principal of, premium, if any, and interest on such Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of, premium, if any, and interest on any Bond to the registered owner thereof at the time and place, from the source and in the manner herein expressed.

The Issuer has reserved the right to amend the Indenture, with the consent of the Credit Provider and the Borrower, as provided therein. Under some (but not all) circumstances amendments thereto must also be approved by the owners of at least a majority or 100% in aggregate principal amount of the outstanding Bonds.

## REGISTRATION INFORMATION

Under the terms of the Indenture, the Trustee will register a Bond in the name of a transferee only if the owner of such Bond (or its duly authorized representative) provides as much of the information requested below as is applicable to such owner prior to submitting this Bond for transfer.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security or Employer Identification Number: \_\_\_\_\_

If a Trust, Name and Address of Trustee(s) and Date of Trust: \_\_\_\_\_

## ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer such Bond on the books kept for registration and transfer of the within Bond, with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTE: The signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without enlargement or alteration or any change whatsoever.

Signature guaranteed by:

\_\_\_\_\_  
NOTE: Signature must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

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